

**THE PROCEEDINGS
of
The South Carolina
Historical Association
1990**

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of
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Historical Association
1990**

**Peter Becker
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**The South Carolina Historical Association
The University of South Carolina
Columbia, SC**

THE PROCEEDINGS
OF
THE SOUTH CAROLINA
HISTORICAL ASSOCIATION
1960

Peter Becker
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It is the policy of the South Carolina Historical Association to publish all papers presented at the Annual Meeting. The editor of the *Proceedings* disclaims any responsibility for the scholarship, statement of fact and opinion, and the conclusions of the contributors.

EDITOR'S NOTES

1. When the Association first began to publish the *Proceedings*, the contents of each issue reflected the papers read at the annual meeting. Papers of the annual meeting of 1959, for example, were printed in the *1959 Proceedings*. However, this 1959 issue would not appear until 1960. This delay has been a source of some confusion to libraries, which could not understand why we were always one year "late" with our issues.

Our arrangement was also an occasion of frustration to new members who, joining in 1959, for example, did not receive the *Proceedings* being issued in that year, but had to wait until 1960 to acquire their copy of the *1959 Proceedings*.

In order to avoid both confusion and frustration in the future, the *Proceedings* henceforth will bear the number of the year in which they are issued. Therefore, this year's issue is labeled 1990 and will be given to anyone who is currently a member or becomes one.

2. In the past, the editor at five-year intervals included an index of all articles published during the preceding five years. In order to continue to provide this register in all years ending with 5 or 0, this issue will include a register, even though only four years have passed since the publication of the last one.
3. Together with the renumbering of the issues, the editor this year starts the practice of giving a uniform appearance to the *Proceedings*, departing from the varying colors of the cover page. Henceforth the color combination of the cover page will be blue and white, corresponding to the two colors of the South Carolina state flag.
4. The editor regrets that Professor Gujer's article in this issue is his final contribution. Bruno Gujer died not long after presenting his "Dialogue on Heresy."

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Another Look at the Grant Presidency

Brooks D. Simpson
Wofford College

On December 5, 1876 Ulysses S. Grant submitted his eighth--and last--annual message to Congress and the nation. It was a most unusual and candid document. "It was my fortune, or misfortune," he wrote, "to be called to the office of Chief Executive without any previous political training. Under such circumstances it is reasonable to suppose that errors must have occurred....Mistakes have been made, as all can see and I admit....Failures have been errors of judgment, not of intent."¹

Few presidents have been so willing to admit that they erred. But most historians seem determined to present the Grant administration as a comedy of errors, many perpetrated by the man in the White House. As William R. Brock has put it, "no man has fared worse in the account transmitted to posterity."² Most scholars writing about Grant take their cue from Henry Adams, who privately fumed, "In civil affairs he has absolutely no mind; there is nothing in him; he is weak, obtuse, narrow, and lazy."³ In *The Education of Henry Adams*, the embittered reformer issued a memorable indictment of the eighteenth president: "He had no right to exist....The progress of evolution from President Washington to President Grant, was alone evidence enough to upset Darwin."⁴ Most historians echo Adams's sentiments. A premier textbook for the period concludes that Grant was "unfitted for the duties of his lofty office and was so thoroughly involved in partisan politics that his administration became a national scandal."⁵ C. Vann Woodward charges that Grant's "sorry" administration represented "the all-time low point in statesmanship and political morality in our history."⁶ Avery Craven describes the general-president as "a pathetic, bewildered, shuffling figure whom others used for ends he never understood."⁷ Nor were such characterizations limited to historians. Political scientist Wilfred E. Binkley judged him "the most pathetic figure that ever occupied the

¹Ulysses S. Grant, Eighth Annual Message, December 5, 1876, in *Messages and Papers of the Presidents*, ed. James D. Richardson (Washington, D.C., 1898), VII: 399-400.

²William R. Brock, *Conflict and Transformation* (New York, 1973), 402.

³Henry Adams to James H. Wilson, May 20, 1884, Wilson Papers, Library of Congress.

⁴Henry Adams, *The Education of Henry Adams* (Boston, 1918), 266.

⁵James G. Randall and David H. Donald, *The Civil War and Reconstruction*, 2nd edition (Lexington, MA, 1969), 653.

⁶C. Vann Woodward, "The Lowest Ebb: Grant's Sorry Administration," in Allan Nevins, ed., *Times of Trial* (New York, 1958), 157.

⁷Avery Craven, *Reconstruction: The Ending of the Civil War* (New York, 1969), 275.

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office of President of the United States," while another government professor, Henry J. Abraham, dismissed him as "prejudiced, undignified, vacillating, and naive."⁸ Taken together, these statements suggest yet another rendering of Grant's malleable first two initials: "uniquely stupid."

Inconsistency and contradiction mark much of the scholarship on the Grant presidency. What historians damn in Grant they praise in others. Comparing what scholars have said about the use of the patronage power by Grant, Lincoln, and Andrew Jackson proves illuminating. "All [Grant] had learned about practical politics in four years," Matthew Josephson noted disdainfully, "showed that centralized control of the machinery of government must be fostered by a systematic partisan use of the patronage power if elections were to be won and power retained under our elaborate democratic processes."⁹ Yet other presidents who understood the political system thusly, far from being assailed, are celebrated as master politicians. David Donald credited Lincoln as "an astute and dexterous operator of the political machine," who "understood that in a democratic, federal government like ours, patronage is the one sure way of binding local bosses to the person and principles of the President."¹⁰ Arthur Schlesinger, Jr. praised Andrew Jackson's use of patronage as "an invaluable means of unifying administration support."¹¹

Nor do historians always agree on why Grant was such a poor president. Take, for example, Grant's Reconstruction policy. Historians of the early twentieth century who attacked Reconstruction as too harsh on white Southerners and too unrealistic about the capacities of the newly-freed blacks viewed Grant, in the words of Claude Bowers, as "the militant champion of Radicalism at its worst."¹² More recently, historians far more supportive of racial equality and a more rigorous policy toward the defeated whites have gone to the other extreme of criticizing Grant for excessive leniency, and William S. McFeely condemned him for indifference to the fate of black Americans.¹³

To be sure, some historians have offered revisions of the traditional image of the eighteenth president. David Donald remarked that Grant "played politics with a skill that confused his critics--and some subsequent historians as well."¹⁴ John A. Carpenter concluded after a reexamination of Grant's presidency that "by the time his eight years were up he understood professional politics as well as anyone could."¹⁵ But old stereotypes endure. A recent history judges Grant's administration "the nadir of presidential probity" as "corruption reached new heights" under the befuddled executive.¹⁶

Why is this? How did Ulysses S. Grant incur the wrath and sarcasm of so many

⁸Winfred E. Binkley, *President and Congress* (New York: Vintage Press, 1962), 186; Henry J. Abraham, *Justices and Presidents: A Political History of Appointments to the Supreme Court*, 2nd edition (New York: Oxford University Press, 1985), 125.

⁹Matthew Josephson, *The Politicos* (New York, 1938), 172.

¹⁰David Donald, *Lincoln Reconsidered: Essays on the Civil War Era*, 2nd edition (New York, 1962), 65-76.

¹¹Arthur Schlesinger, *The Age of Jackson* (Boston, 1945), 45-46.

¹²Claude G. Bowers, *The Tragic Era* (New York, 1928), 279.

¹³William S. McFeely, *Grant: A Biography* (New York, 1981); see Brooks D. Simpson, "Butcher? Racist? An Examination of William S. McFeely's *Grant: A Biography*," *Civil War History* 33 (March 1987), 63-83.

¹⁴David Herbert Donald, *Liberty and Union: The Crisis of Popular Government, 1830-1890* (Boston, 1978), 246.

¹⁵John A. Carpenter, *Ulysses S. Grant* (New York, 1984), 78.

¹⁶Sean Dennis Cashman, *America in the Gilded Age: From the Death of Roosevelt to the Rise of Theodore Roosevelt* (New York, 1984), 184-86.

scholars? Part of the problem may be found in the practice by historians of quoting Grant's opponents. Like other presidents, Grant made his share of enemies. But he had the misfortune to offend perhaps the most eloquent assortment of soreheads ever assembled in American history, men whose talents with the English language attracted historians desperate to enliven their texts. Many of Grant's opponents hated him because he was not one of them. He was no refined intellectual (although, contrary to popular myth, he enjoyed the company of intellectuals, including Cornell President Andrew D. White, and literary figures, including Mark Twain) and certainly no gentleman as defined by the Eastern establishment. As a reformer put it in 1876, Grant "was not sufficiently high-toned, he was not cultured, and he had bad men around him."¹⁷ Henry Adams put it best in 1869 when he commented that he looked forward "to a reign of western mediocrity" under the Ohio-born Grant.¹⁸

Unfortunately for Grant, scholars have preferred to quote the colorful writings and pungent prose of Adams, editor Edwin L. Godkin, and other reformers without critically examining such sources. Yet, as John G. Sproat, Ari Hoogenboom, and other historians have reminded us, Grant's critics were men with an axe to grind.¹⁹ Many of them had looked to Grant to change the political system and to restore the rule of the best and the brightest (meaning themselves). If, as Morton Keller suggests, the disillusionment of Grant's critics "was in part a product of their exaggerated hopes," one might add that aspirations for office formed part of these hopes.²⁰ Grant noted that the protests of reformers against the spoils system were hypocritical, for "the men who were reformers [were] as anxious for patronage as others."²¹ Many of Grant's opponents, including Horace Greeley, Reuben Fenton, Carl Schurz, and Henry Adams, had been unsuccessful in seeking offices for themselves or their friends.

Nor did these men take defeat and disappointment lightly. Outcasts from office, they launched upon a campaign of vituperation and slander, crying that the republic was at an end. Grant characterized the tone of the charges made by reformers as "wild and astounding"; if at times he proved too ready to dismiss these individuals as nattering nabobs of negativism, perhaps some of the blame will have to be laid at the feet of reformers' outrageous rhetoric.²² For example, Grant had been president barely a year when a disgruntled conservative, former Senator James Grimes of Iowa, sourly remarked that the Republican party "is to-day the most corrupt and debauched political party that has ever existed."²³ Of course, Grimes once stated that Abraham Lincoln's "administration has been a disgrace from the very beginning to every one who had anything to do with bringing it into power."²⁴ Other critics had curious notions as to what made a good president. Henry Adams, who had met nearly every president who served between the

¹⁷New York Times, May 16, 1876.

¹⁸Henry Adams to Charles Francis Adams, Jr., February 23, 1869, *The Letters of Henry Adams*, eds. J.C. Levenson, et al. (Cambridge, MA, 1982, 1988), II: 20.

¹⁹John G. Sproat, *"The Best Men": Liberal Reformers in the Gilded Age* (New York, 1968); Ari Hoogenboom, *Outlawing the Spoils* (Urbana, IL, 1961).

²⁰Morton Keller, *Affairs of State* (Cambridge, MA, 1977), 259.

²¹John Russell Young, *Around the World With General Grant*, 2 volumes (New York, 1879), 2: 263-64.

²²Young, *Around the World with General Grant*, 2: 263-64.

²³Cashman, *America in the Gilded Age*, 187.

²⁴Donald, *Lincoln Reconsidered*, 62.

Civil War and World War I, declared that Andrew Johnson was perhaps the strongest one of the lot. Anyone who evaluates the Tennessee tailor ahead of Abraham Lincoln, Theodore Roosevelt, or Woodrow Wilson, to say nothing of Ulysses S. Grant, has some rather peculiar ideas about presidential power and success.²⁵ Yet his evaluation of Grant is quoted with approval by the majority of scholars, and Winfred Binkley termed him "a very trustworthy eyewitness."²⁶ Ignored by most are comments such as that made by James A. Garfield, the Ohio congressman who viewed Grant with ambivalence. As Grant departed the White House in 1877, Garfield observed, "No American has carried greater fame out of the White House than this silent man who leaves it today."²⁷

The widespread corruption of the 1870s also accounts for Grant's low standing in the eyes of historians. Indeed, many accounts of the Grant administration make it sound as if the amount and degree of graft and greed which occurred during those eight years were unique. This is far from the truth. As Mark W. Summers's recent study makes clear, the decade preceding the Civil War was rife with corruption at all levels of government.²⁸ The war opened new fields for fraud, as procurement contracts, the cotton trade, and other opportunities for plunder appeared.

Grant came to the presidency in the midst of this quagmire, and many reformers hoped that he would put an end to it. But it had infiltrated all branches and levels of government. Indeed, the first revelations of corruption during the Grant administration did not involve the president at all. Most serious was the Credit Mobilier scandal, in which it was revealed that several congressmen and senators had received stock and money from the builders of the Union Pacific Railroad. These transactions had taken place before Grant assumed the presidency, yet, because they were revealed while Grant was president, they are forever linked with his name. Nor was corruption limited to the nation's capital, as the Tweed Ring in New York and several state governments, both in the North and South, Republican and Democrat alike, suggested.

That corruption was widespread is obvious; but when we think of corrupt administrations during the middle of the nineteenth century, we think first of the Grant presidency. Republican Congressman George F. Hoar, an outspoken critic of corruption during the Grant years, nevertheless concluded that there had been less corruption during Grant's administration than there had been during the early years of the republic.²⁹ Wisconsin senator Timothy O. Howe believed that Grant's presidency provided "the purest civil service we ever had since the government was organized."³⁰ What was different about the Grant administration was the effort of the press to uncover corruption, aided and abetted by dissident Republicans and gleeful Democrats. Even the Democratic *Chicago Times* admitted in 1876 that "no administration was ever submitted to such searching scrutiny as his."³¹ That Grant was the first president to push for civil service reform to remedy long-standing abuses and corruption is often forgotten.

²⁵Adams, *Education of Henry Adams*, 246.

²⁶Binkley, *President and Congress*, 183.

²⁷Allan Peskin, *Garfield* (Kent, Ohio, 1978), 419.

²⁸Mark W. Summers, *The Plundering Generation: Corruption and the Crisis of the Union, 1849-1861* (New York, 1988).

²⁹George F. Hoar, *Autobiography of Seventy Years*, 2 vols. (New York, 1903), I: 309.

³⁰Timothy O. Howe to Grace Howe, March 8, 1876, Howe Papers, Wisconsin State Historical Society.

³¹*Chicago Times*, May 6, 1876.

Nevertheless, if corruption was not unique to the Grant administration, it was still present, and sometimes it involved people uncomfortably close to the president. Grant was cursed by a set of relatives who would put Billy Carter to shame. Their dealings, if not illegal, were highly questionable, and Grant deserves much of the censure he has received on this score. There is also little doubt that he stood by some of his discredited associates far too long. In part this was because Grant hated to desert a friend under fire. "The true test of friendship, after all," he once commented, "isn't to stand by a man when he is in the right; anyone can do that; but the true test is to stand by him when he is in the wrong."³² This explains but does not excuse Grant's poor judgment. But critics of President Grant go too far when they claim that Grant was an unusually poor judge of character. Other presidents, including Jackson and Lincoln, had appointed corrupt individuals to high offices; and if Grant was naive about the character of some of his appointees and associates, he was far from alone, as a look at some prominent examples suggests.

Perhaps the most famous incident of corruption by a member of the Grant administration was the indictment of private secretary Orville E. Babcock on charges of conspiring to defraud the government as part of the infamous Whiskey Ring, which had existed in various forms for some time prior to Grant's presidency. Historians often point to this affair as illustrative of Grant's ineptitude and befuddlement. Yet they often overlook that the investigation which uncovered the Whiskey Ring was commenced, with Grant's approval, by Secretary of the Treasury Benjamin Bristow, although Bristow's presidential ambitions eventually caused Grant to view him with suspicion.

Grant, at least at first, sincerely believed in Babcock's innocence. "If Babcock is guilty," he snapped, "there is no man who wants him so much proven guilty as I do, for it is the greatest piece of traitorism to me that a man can possibly practice."³³ But he was far from alone in defending his private secretary. William T. Sherman testified to Babcock's good character, declaring to Philip Sheridan, "There is no foundation for the scandal."³⁴ Rutherford B. Hayes, telling Babcock that "he had observed the lying" about the former White House aide, retained him as superintendent of lighthouses.³⁵ If Grant misjudged Babcock, so too did Sherman and Hayes, men who historians mistakenly believed knew better.

Secretary of War William W. Belknap resigned from the cabinet in March 1876 under charges that he had accepted kickbacks from western military post traders. Subsequent revelations suggested that the post traders may have cut the deals with Belknap's two wives, who were sisters, but the damage had been done. Here again Grant was far from alone in misjudging his fallen cabinet minister (although in this case it is also clear that he concluded that someone had done wrong). Supreme Court Justice Samuel Miller stood by Belknap's side; Sherman was shocked by the charges of corruption, having endorsed Belknap's appointment in 1869.³⁶ Only a few years earlier

³²Franklin S. Edmonds, *Ulysses S. Grant* (Philadelphia, 1905), 338.

³³Dee Brown, *The Year of the Century: 1876* (New York, 1966), 90.

³⁴William T. Sherman to Philip H. Sheridan, November 20, 1875, Sheridan Papers, Library of Congress; Entry for February 26, 1877, Orville H. Babcock Diaries, Babcock Papers, Newberry Library.

³⁵Entry for March 8, 1877, Babcock Diaries, Babcock Papers, Newberry Library.

³⁶Brown, *Year of the Century*, 95.

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James A. Garfield had praised Belknap's administration of the War Department as the most economical he had ever known.³⁷

Whether Babcock and Belknap were guilty as charged are matters left for another time. What is important to note here is that Grant was not alone in defending these two men. Other men widely renowned as good judges of character sided with Babcock and Belknap. Moreover, it seems that whatever the reaction of newspaper editors and prominent intellectuals, most Americans remained undisturbed by such revelations. At the height of the Belknap scandal, and with memories of Babcock's troubles fresh in their minds, the Republican party carried the day in several state elections.³⁸ Four years later the American people elected Garfield president, despite evidence that he often muddled the distinction between the public interest and his private prosperity; eight years later James G. Blaine, who also found himself in trouble in 1876, secured the Republican nomination despite evidence that his ethics were suspect. As Roscoe Conkling once put it, Americans liked their politicians "with a gamey taste." To blame Grant for things for which he was not responsible, such as Credit Mobilier, and to single him out as uniquely naive when he had plenty of company distorts our perspective of Grant's performance as president.

It is time to break away from the practice of citing the criticisms made by Grant's opponents as if they were objective and detached observations about the eighteenth president. Such practices make for poor scholarship, scholarship which amounts to no more than a paraphrase of partisan rhetoric. Certainly a history of the administrations of Abraham Lincoln, Franklin D. Roosevelt, or any other president which relied chiefly upon sources critical of the chief executive would be rejected by the historical community as biased and unfair. Nor should scholars interested in rediscovering the Grant presidency allow their work to be directed by the need to counter previous charges. It would be almost too easy to rewrite the story of Grant's presidency by quoting his friends--and it would be just as misleading. Rather, future scholars investigating the Grant presidency should establish their own agenda and offer new perspectives. One particular area which deserves such treatment is Grant's exercise of presidential power.

Most historians judge Grant a failure at presidential leadership, a concept which combines the responsibilities of the office and the need to exercise political skill. They have followed the lead of Henry Adams, who declared: "A great soldier might be a baby politician." But a second look which goes beyond the carping if quotable comments of his critics suggests a different picture. For Grant was a very effective chief executive, forging alliances within his own party, punishing opponents, dictating party strategy, and confronting Congress when necessary.

One of the most ironic aspects about the historiography of the Grant presidency is the portrayal of Grant as a weak chief executive. Such a charge would have surprised many of Grant's contemporary critics, who delighted in labelling the President as a despot. Several went so far as to call him "Kaiser Ulysses" Democratic leader Thomas Bayard decried Grant's "jack-boot domination."³⁹ Gideon Welles, who had served in the

³⁷Peskin, *Garfield*, 394.

³⁸William B. Hesseltine, *Ulysses S. Grant, Politician* (New York, 1935), 397.

³⁹Charles C. Tansill, *The Congressional Career of Thomas Francis Bayard* (Baltimore, 1946), 92.

cabinet under Lincoln and Johnson, charged that "Grant and his radical congress" were "tearing the government to pieces--breaking down all constitutional barriers--centralizing power--hurrying on to empire"--hardly a description of a weak presidency.⁴⁰ Orville Browning seconded his old colleague's complaints, remarking that "we are rapidly tending to a centralized despotism."⁴¹ "Never was a President so submissively obeyed," the New York *Herald* grumbled in despair.⁴² One opposition paper bemoaned such subservience: "The Republican party, like the Republican senate, has become the property of President Grant....Fidelity to the principles of the party is only a euphemism for loyalty to the person of the president."⁴³ Carl Schurz echoed such charges: "Opposition to Grant constituted high treason against the party, for which there was no quarter," he told disgruntled Republicans in 1872.⁴⁴ These are not the characteristics of a weak and uncertain leader, but of a powerful, assertive, and demanding chief executive--which was how Theodore Roosevelt viewed Grant.⁴⁵

When he was elected, Grant took his position as head of the Republican party lightly. "I am not a representative of a political party," he declared, "though a party voted for me."⁴⁶ And, after all, many Americans had voted for Grant precisely because he was not a politician. Furthermore, Grant, in an attempt to quell fears raised by Andrew Johnson's high-handed abuse of presidential power, initially outlined a rather limited conception of the responsibilities of the president as those of "a purely administrative officer."⁴⁷ "I shall on all subjects have a policy to recommend, but none to enforce against the will of the people," he declared in his first inaugural. Historians, oblivious to the context within which Grant spoke, have erroneously concluded that he had a caretaker's conception of the presidency. After a year of stumbling and feuding with Congress, however, Grant abandoned any thought of being above politics and decided to forge alliances with party regulars experienced in the art of political maneuver. "A President must consider Congress," he later opined. "If he wants to get along with Congress, have the government go smoothly, and secure wholesome legislation, he must be in sympathy with Congress."⁴⁸ Carl Schurz described the system perfectly: Grant aided senators "with executive influence in controlling their states for themselves"; in return the senators assisted "in controlling the party for him."⁴⁹

Schurz was right. Grant forged alliances with several powerful senators. What is remarkable about these alliances is how loyal these senators were to Grant, as evidenced in their personal correspondence. Far from being a tool of a group of senators, Grant worked with them, consulting them about state papers, patronage appointments, and the

⁴⁰Gideon Welles to James Rood Doolittle, June 10, 1871, Doolittle Papers, Wisconsin State Historical Society.

⁴¹Orville H. Browning to Carl Schurz, March 31, 1871, Schurz Papers, Library of Congress.

⁴²Albert B. Paine, *Thomas Nast: His Period and Pictures* (New York, 1904), 281.

⁴³*St. Louis Republican*, March 29, 1871.

⁴⁴Washington, D.C., *National Republican*, July 23, 1872.

⁴⁵Theodore Roosevelt to Frederick S. Oliver, July 22, 1915, and to Arthur H. Lee, September 2, 1915, in Elting E. Morison et al., eds., *The Letters of Theodore Roosevelt*, 8 volumes (Cambridge, MA, 1951-54), 8:951,967-68.

⁴⁶Keller, *Affairs of State*, 260.

⁴⁷Grant to Joseph R. Hawley, May 29, 1868, in Edward McPherson, *The Political History of the United States During the Period of Reconstruction* (Washington, D. C., 1871), 365.

⁴⁸Young, *Around the World with General Grant*, 2: 265-66.

⁴⁹Washington, D.C., *National Republican*, July 23, 1872.

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management of legislation. Roscoe Conkling, one of the most prominent leaders in the upper chamber, was steadfastly loyal to Grant, confiding to a friend that Grant "has given the country the best practical administration, in many respects, we have had for a quarter of a century."⁵⁰ Senator Howe seconded Conkling's support, telling his wife, "The millions are with Grant....the game is to beat him by solid systematic lying." Time and again Howe portrayed the President as "the *great* man in the crisis," possessed of "thorough and steadfast good sense." He concluded, "There never was such a President in the White House. One so absolutely fearless."⁵¹ Conkling, Howe Simon Cameron, Zach Chandler, Oliver Morton, Matthew Carpenter, and other senators carried out Grant's program on the floor of Congress. The president met with them often to map out plans for political battle. Indeed, it was the very strength of this political coalition that led Grant's enemies to charge that he was a tyrant forcing Republicans to submit to the will of the administration.

Grant's opponents in Congress found out that the president was not reluctant to use his power to punish enemies as well as to reward supporters. Schurz protested against "the repeated interference of the President in the affairs of the Legislature."⁵² This does not sound like a description of a man who surrendered the initiative to Congress. Schurz's close associate, Charles Sumner, felt Grant's wrath most directly. Once the Massachusetts senator crossed Grant over the issue of annexing San Domingo, the president removed Sumner's partisans from office and toppled him from his chairmanship of the Foreign Relations Committee. When in future years other prominent Republicans considered breaking with the president, they were urged to heed the lesson taught Sumner. Most did.

Of course, at times Congress and Grant did clash. When Congress passed legislation which displeased him, he willingly resorted to the veto, most importantly when he rejected the Inflation Bill in April 1874. And, compared to his predecessors, Grant used the veto power fairly frequently once the Democrats seized control of the House of Representatives following the election of 1874. As one student of the veto power observed, "Any chief Executive who gave forty-four regular vetoes and about the same number of pocked vetoes, while Congress overrode only three of them...was not a weak President."⁵³ He was the first president to call for the line-item veto or to impound funds, two assertions of executive power over the legislative process. And when the Democratic-controlled House sought to inquire about the time Grant spent away from Washington, he snapped back that, in effect, it was none of Congress's business where he performed his duties so long as he performed them.⁵⁴

When one considers the political environment in which Grant operated, his ability to sway Congress becomes even more remarkable. For Grant became president at a time when most Congressmen were busy asserting the prerogatives of their branch of the federal system. "The executive department of a republic like ours should be subordinate

⁵⁰Roscoe Conkling to John a. Griswold, August 26, 1871, in Alfred R. Conkling *The Life and Letters of Roscoe Conkling* (New York, 1889), 336.

⁵¹Timothy O. Howe to Grace Howe, March 2, 1872, January 20, 1874, January 18, 1875, and March 8, 1875, Howe papers, SHSW.

⁵²Schurz to E. L. Godkin, March 31, 1871, Schurz Papers, Library of Congress.

⁵³Carlton Jackson, *Presidential Vetoes* (Athens, GA, 1867), 148.

⁵⁴Ulysses S. Grant to the House of Representatives, May 4, 1876, *Messages and Papers of the Presidents*, 361-64.

to the legislative department," declared John Sherman, a prominent senator during Grant's administration.⁵⁵ "The Senate is much given to admiring in its members a superiority less obvious or quite invisible to outsiders," Henry Adams once snickered; and Adams, borrowing a line from Lincoln's Gettysburg Address, concluded that "democracy, rightly understood, is the government of the people, by the people, for the benefit of senators."⁵⁶ One of Grant's cabinet ministers, George S. Boutwell, observed: "More than elsewhere the seat of power is in the Senate, and the Senate and Senators are careful to exact a recognition of their rights."⁵⁷ Grant needed only to look at what had happened to Andrew Johnson when the Tennessean attempted to defy Congress. Surely Grant's ability to work with Congress contrasts favorably with that of Johnson or Rutherford B. Hayes. An effective president seeks to work with Congress, not to fight it.

Moreover, Grant became president at a time when his party was undergoing a significant transition. The Republican party during the 1850s and 1860s was basically a coalition held together by its policies toward the South in war and peace. With secession defeated, emancipation accomplished, and the fate of the postwar South seemingly determined by 1868, Republicans had to look for new issues to keep the party together. If Republicans in the 1850s worked at forging a majority, in the 1870s they reformed it. Much of the feuding among Republicans during these years was inevitable, as party leaders sought new issues and exposed long-standing divisions over economic and foreign policy. Grant played a major role in determining the course of this transformation; his presidency was shaped in large part by Republican factionalism. Yet most evaluations of the Grant presidency overlook this fact or attack Grant for causing divisions which were in truth already present. Surely any attempt to evaluate the exercise of presidential power should not overlook the institutional and political environment in which it was exercised.

It is time to take a new look at Ulysses S. Grant's performance as president. Old accounts, largely composed of political attacks and criticisms spliced together and presented as research, are no longer satisfactory. For the Grant Presidency was a crucial one in American history. During Grant's eight years in the White House important decisions were made about Reconstruction, foreign policy, and financial policy. New policies toward Native Americans and civil service reform were tried and eventually abandoned. Historians may find much to criticize in how Grant exercised power; they may question the means and ends of administration policy. For example, several of Grant's appointments to the Supreme Court (for which, ironically, he has received high grades from some), proved counterproductive to his policy of federal intervention in the South to protect black civil and political rights.⁵⁸ Indeed, his entire Reconstruction policy may have floundered in large part because he attempted to achieve simultaneously the irreconcilable goals of reconciliation and racial justice. Certainly this level of inquiry and discussion transcends what has passed for historical orthodoxy about these years. Grant probably will not emerge from such a reevaluation ranked as one of our better presidents,

⁵⁵John Sherman, *Recollections of John Sherman*, 2 vols. (Chicago, 1895), II: 447.

⁵⁶Adams, *Education of Henry Adams*, 102; Henry Adams, *Democracy: An American Novel* (New York, 1968 [1880]), 23.

⁵⁷George S. Boutwell, *Sixty Years in Public Affairs*, 2 vols. (New York, 1902), II: 211.

⁵⁸See Abraham, *Justices and Presidents*, 125, for praise of Grant's Supreme Court appointments.

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although he should be rescued from his present reputation as an abysmal failure. But Grant will cease to be one of our most misunderstood presidents, and it is historical understanding, not mere judgment summarily delivered, that is Clio's primary task.

Dialogue On Hersey: An Approach To The Teaching Of History

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For most historians heresy is a phenomenon which belongs to the early phase of European history. They distinguish between the early Christian heresies, such as Arianism or Monophysitism, and those of the High Middle Ages, the Albigensian and Waldensian, and those even later, such as the Jansenist heresy. When talking about such as Luther and Calvin, however, or about the Quakers, historians feel uncomfortable using the word "heresy." That is, after all, the term used by the orthodox church at the time to combat the upstart movements, and using it makes the historian seem partial in his discussion of these events. For these "heresies", in turn, became orthodoxies of their own, the heresiarch became pope, and so one of the main qualifiers of heresy, namely its status outside of regular society, ceased to apply. In our day, churches abound; any religionist can found his own. In the reign of tolerance, one might think, heresy is pointless.

Is one then, in fastening upon heresy as the focal theme of one's teaching, entirely limiting oneself to early European history? Why concentrate upon a concept so loaded with associations of treason, disease, and unnatural behavior? Is there any relevance in it for today's undergraduates in understanding themselves in the context of their world? It is the purpose of this paper to show that heresy is a phenomenon of continuing historical and sociological relevance. It is neither specifically Christian nor does it belong to the distant past: it is timeless and an aspect of the dialectic of the human psyche reacting to the social and ideological environment.

What, then, is a heresy? In history, a heresy is quite simply any belief or practice which an established orthodox authority has condemned as heretical. At issue are always religious questions, i.e., truths which are considered fundamental to the make-up of individual and society. Thus all world religions developed heresies, as did the secular ideologies or substitute religions of our day.

The concept of heresy presupposes that of orthodoxy which implies the ideal of a society unified by a supreme, sometimes transcendental reality or destiny that demands the total attachment of the individual. The origin of this notion is probably to be found in the tribalism of primitive man. It entered the mainstream of Western Civilization through the Old Testament where orthodoxy emerged as the pharisaic elaboration of the

covenant between God and his "chosen people."

As this example shows, orthodoxy always consists of two interacting components: the content of the belief, or "creed," and the group of people who elaborate the belief. The latter is most important to us, for history is a matter of social relationships, not abstract ideas. Heresy may arise from opposition to one or the other of these components, i.e., from a divergence in creed or as a challenge to the organization and personnel of its church - or party, as the case may be. Most often, a heretic accuses the orthodox group of having perverted the "true" spirit of an original doctrine. In that he challenges the orthodox purveyors' very function and authority, he disputes the arrangements within the house of orthodoxy. If he were aiming to establish new doctrines, such as Mohammed, he would be classified an "infidel" and no longer pose the same problem.

The first Persian Empire, the empire of Alexander and his successors, and the early Roman Empire were all multinational conglomerates of great religious diversity. If they had a common orthodoxy at all it was purely secular, residing in the concept of a superior culture or of the majesty of the state. It was not until the third century A.D. that religious unity was sought to shore up the weakening political and social structures. The model was provided by Sasanid Persia where the fires of the Mazda cult burned wherever the Persian armies established their hold. In Rome the emperor Aurelianus attempted to make the newly fashioned cult of Sol Invictus the binding orthodoxy for all citizens. The persecution of the Manichees and Christians by Diocletian should be understood before the background of this policy. Constantine finally made Christianity the unifying base of the empire. From the beginning, Christian finally made Christianity the unifying base of the empire. From the beginning, Christian heterodoxy threatened this purpose, and thus the Roman lawmakers preoccupied themselves with it. Constantine himself presided over the council of Nicaea which condemned Arianism. Book XVI of the Theodosian Code contains 150 constitutions dealing with the defense of orthodoxy, and the first book of the Code of Justinian opens with a definition of the trinity.

Maybe Constantine, being a pragmatist, did not care much about what individual citizens believed privately, as long as they professed and celebrated in unison. Soon, however, practice became custom, custom tradition, and tradition received truth. For Thomas Aquinas and his contemporaries, to believe and act outside of orthodoxy was an infection in the quasi biological sense on the body politic: "haeresis est infectum vitium." (*Summa Theologica*, Part II of Second Part, Q.11)

Yet for any well developed body of ideas not to give rise to variations, or for any privileged group of clergy not to attract competition--persistent competition in view of the spiritual and temporal benefits to be gained--would be contrary to basic social processes. Thus the question of why heresies arise can be answered simply: they are an inevitable by-product of the development of orthodoxies. In the ever more precise definition of orthodoxy as the underlying bond of society in late Antiquity, the ground was laid for the proliferation of heresies. In the great doctrinal struggles that wracked the Christian world of the eastern Mediterranean during the first millennium A.D., armies of clergy and laity competed for power and wealth within the state behind the shield of religious "truth." In the west where the imperial order eroded under the onslaught of the Germanic barbarians, clergy and laity had more basic concerns than fine points of

doctrine. There the emphasis was pastoral in the attempt to hold the community together and preserve a minimum of civilization. As soon as Western Europe grew in population and wealth again, however, beginning in the eleventh century, it, too, acquired a rich harvest of heresies.

Heresy, one is almost tempted to say, is not an interesting proposition as long as nothing but truth is to be gained by it. A few generations of peaceful urbanization, strong local self-government accompanied by a relative weakness of large-scale institutions such as church, king, or emperor, the accumulation of wealth based on long-distance commercial connections--notably through the cloth trade--and the resulting diversity of cultural influences: this has always been the fertile soil upon which heresy grew. If allowed to persist over several generations, such divergent religious ideas and practices easily became part of the self-definition of a city or region. How many of the complex theological disputes in the early Greek church were mere expression, by means of the then dominant conceptual coinage, of the competition of Alexandria and Antioch and Constantinople? Were the Monophysitism of Armenia or the bogomilism of Bulgaria anything more than national self-assertions against the overwhelming political and cultural influence from the Byzantine metropolis? Did not Bosnia and Herzegovina before the Turkish conquest adhere to heresy also to maintain their separateness from the Hungarians, Serbians, and Italians? And Flanders, Lombardy and Languedoc: were they not at once the richest provinces of Western Europe and those most difficult to control by kings, emperors, or popes? While heresy sprang up elsewhere in Europe also, there it appeared as almost an integral part of the culture and reemerged again and again despite the labors of the Inquisition.

The definition of heresy, we have argued, has much to do with the definition of orthodoxy. The eleventh century in Europe was not only an age of great demographic and economic aggrandizement, but also of spiritual ferment. It culminated in the Gregorian Reforms, a comprehensive redefinition of priesthood and church both in spiritual and legal terms. Theological issues formed the focus of intellectuals' concern everywhere. Historians have argued whether the flourishing of heresy in Western Europe around this time represented an import from the East or arose spontaneously from the religious fervor and anti-clerical bias of independent-minded burghers. It is true that once one frees oneself of the conceptual clichés sanctified by centuries of orthodox interpretation, one may arrive at a reading of the gospels as simple and absolute in their ethical demands as that of the medieval Cathars. Maybe the specific creed of medieval heresies is less significant than the fact that they were all anti-clerical movements--the Cathars, Waldensians, Lollards, Begins, Hussites--forerunners of Luther's Reformation, popular protests against the monopolization and spoliation of what people held to be holy by a professional clergy.

It was this clergy, this Church, which defined its opponents as heretical or not, depending on whether in the end they submitted to its power. In works like the *Summa Theologica* of Thomas Aquinas the finest details of orthodoxy seemed forever fixed. Through the Inquisition a mechanism was established to enforce conformity. The Inquisition's goal was not to burn heretics--in that they admitted defeat. Its purpose was to bring the errant sheep back to the fold. A heresy, no matter what its content, ends when the heretic is reconciled to orthodoxy and submits to its penance.

Thus, apart from the labeling by the orthodox authority, it is the persistence of the heretic that makes a heresy. It is this personal, unpredictable element that lends the subject its tragic grandeur and fascination. Peter Waldo, a rich merchant from Lyon in France, gave all his property to the poor and began to preach in favor of a more simple and original form of Christian worship. He was a forceful man who meant to be heard regardless of official obstruction and formal prohibition from Rome. He was excommunicated and thenceforth his communicants persisted outside the fold. Young Francis of Assisi, a generation after Waldo and of similar background, held similarly radical ideas. Yet he was such an obviously meek and holy man that the protection of the Church followed him even when he did not seek it. In the end, the modest chapel where he wanted to be buried was engulfed by a monumental basilica. In the interplay between his personality and the power structure within which he moved, he was never allowed to fall outside.

Thus, while the definition of heresy is a sociological one, the definition of the heretic must by necessity be psychological. A heretic is a religious searcher who has arrived at a conception of faith at variance with the official creed; who is intensely conscious of this difference to the point of identifying solely with it and persisting in it regardless of all consequences.

When the crusaders in 1244 finally invested Montségur, the citadel of the Cathars of the Languedoc, a truce was arranged of fifteen days to allow those within the castle to reconcile themselves with the Church and escape death. None of the Perfecti recanted. To the contrary, a number of those who had been mere sympathizers of the Cathar saints received the Consolamentum during those days and became Perfecti themselves, thus sealing their own fate. At the end of the truce, more than two hundred of them were burned in the meadow below the fortress. Here, the timeless meaning of *AIPESIS*, choice, becomes clear: it is a conception of man's conscience that does not acknowledge limitations or allow compromise. The Truth is as the individual conceives it. He is responsible for it before the throne of the Eternal, and no human authority can tell him otherwise. Total dedication to one's inner ethical imperative against all social conventions and received dogma marks the heretic. Thus stood Luther before Emperor and Church at the diet of Worms. Whether victor or victim, history pays tribute to a man or woman of such a character. They represent one of the noblest manifestations of the human spirit. It is the very essence of the example of Jesus who well knew, on approaching Jerusalem, that he would have to conquer the city with his preaching or succumb to the Pharisees. He did not flinch before the consequence of his choice, not even at Gethsemane when his defeat had become obvious.

Taking one's choice, living with it and, if necessary, dying for it: herein lies the timeless relevance of the heretic. One will argue now in the spirit of modern social science that such insistence on one's own judgment borders on the pathological--was not the author of *Mein Kampf* a heretic, too?--that man in modern society must compromise and cooperate. Besides, in a tolerant and free society, there are hardly any issues left that make for clearly defined orthodoxy; everything seems diffuse and endowed with positive and negative qualities at the same time. How can one totally dedicate oneself when there is no foundation for such an attitude? Maybe it helps to imagine that neither Jesus nor the martyrs of Montségur were entirely free of such doubts. A heretic is not

impressed by scientific evidence or what others do, however. His attitude represents a shortcut to the Truth. With Plato he will hold everyday reality to be mere shadows dancing on the cave wall. He has a firm grasp of the essence of things and will not be moved. Is such an attitude useful in modern society?

Tolerance to most people today means compromising one's beliefs, such has been the education of millions since religion became superstition and ideology totalitarian. The edges are glossed over. Everybody is a little bit right. But such tolerance, in its utter disregard for truth, is an education towards nihilism. Roger Williams, who is praised as the founder of religious tolerance in the United States, by contrast, was the most uncompromising, intolerant sectarian. He had the Truth, and he established Rhode Island because he could not tolerate mingling with people who did not see things his way. Tolerance arose because intolerant people insisted on practicing their idiosyncrasies. In order to do so in peace they by necessity had to grant the same right to their fellow men. True tolerance, then, lies not in compromising one's judgment but in respecting it to the fullest--and by extension that of other people, also.

The tolerance of the compromising type that asks for submission to a more or less defined orthodoxy "for the common good" has been the principal means of government for pragmatists in all ages. What mattered to Constantine, to Innocent III, to Louis XIV, or to Mao was not so much truth but adherence to the body politic. Trajan wrote to Pliny the classic statement on the subject: If the Christians sacrifice before the statue of the emperor, let them go. If they refuse, kill them. Modern social science has the same preoccupation and objective. The great international orthodoxies of our day, communism and commercialized capitalism ("That is good which sells"), use its insights to integrate the millions ever better into cohesive social systems. Although nationalism has been a bit discredited as an acceptable orthodoxy in the course of this century, there exists yet no creditable alternative to the nation-state. Thus full-time legislators, public relations men, bureaucratic functionaries, and learned academics continue as before to fashion national creeds and rituals in ever greater detail. The heretic has it difficult in today's free society: unless he blows up airplanes, he is already calculated into the equation. Even the sons of the revolutionaries who yesterday were so defensive and intolerant in their new-won power, now can afford to allow compromises. The famous heretic today is the one who sells well--and so many do. Thus orthodoxy, the creed that works, continues to build basilicas on top of the burial mounds of its detractors.

As there is orthodoxy, though, there is as much cause now--or need-- as ever before for heresies to arise, and for heretics by word and act to question conventional wisdom. The function of the outsider is the same as always: to challenge the logic of events sanctified by the orthodox creed and its promoters, and to insist on his own alternative. Eden Pastora, the Commandante Zero of the Sandinista Revolution, by holding to his ideals, challenged both the Sandinista government of Nicaragua as well as its enemies, the CIA-sponsored Contras. Defeated and barely escaping with his life, he still represents the most trustworthy judgment in midst of the lies fabricated by both sides, a demonstration lesson on the hypocrisy of any militant orthodoxy. Whether the heretic succumbs to the power of the establishment or is able to implant his ways upon it and found a new orthodoxy himself is ultimately a matter of chance arising from the

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unpredictable interplay between personality and historical moment. The buddha, certainly a heretic against the mores of India prevailing in his day, lived and taught into old age before masses of disciples. Jesus was executed in the fullness of his life and without having attracted much of a following. Francis was made a saint, Huss burned at the stake, and Luther became pope of his own church. After Stalin grabbed the mantle of orthodoxy from the dying Lenin, Trotsky was driven from Russia as a heretic and murdered. No historical detail is ever like another; none either necessary or predictable. But in the overview one can conclude that heresy is a timeless phenomenon and that the role of the heretic appears as constructive. He acts as the conscience in the ongoing evolution of society. He is the self-appointed guardian of his truth, which he labors to establish as general. In his courage and often self-righteous singlemindedness, the heretic is an exemplary human being.

Thus the heretic is an appropriate and--given the temperament of youth--a fascinating subject for young people to study. Ideas and facts, everyday concerns and grand matters of state, economic, political, sociological, and psychological issues: all are interwoven in the study of heretics and heresies. The fact that many of these conscient outsiders were women, and that the woman's perspective constitutes one of the most persistent heretical threads through the orthodoxies of the ages, makes this approach particularly attractive to female students who in the past have found history the very bastion of the patriarchy. Above all, however, "Dialogue on Heresy" wants to impart to the student an attitude of respect for the individual and his choice, the very basis of the heretical spirit and ultimately nothing other than the fundamental postulate of Humanism.

William Henry Drayton and the Articles of Confederation

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On November 15, 1777 the Continental Congress completed its deliberations on the text of the Articles of Confederation and sent the document to the several states for ratification. Congress fixed March 10, 1778 as the date it would act on formal ratification of the document and urged the states to complete their consideration of the document before that date. In keeping with the request of congress, the South Carolina general assembly began debate on the Articles in January 1778. The chief critic of the document in the South Carolina assembly was William Henry Drayton, the chief justice of the state and future delegate to the Continental Congress. Drayton's actions in the assembly resembled those of Edward Rutledge and Arthur Middleton in the Continental Congress during the deliberations on the document. Past historians have recognized the importance of Drayton's remarks about the document as drafted by Congress, but in the past five years new evidence has been found that will enhance the historians' view of Drayton in relation to the Articles of Confederation. It is the purpose of this essay to illuminate this new evidence.¹

In the past, historians have viewed William Henry Drayton as an opponent of the Articles of Confederation as drafted by Congress. His biographers, William M. Dabney and Marion Dargan, and noted historian Merrill Jensen argued that Drayton was against the Articles as proposed because many of the articles were ambiguous and the sovereignty of the individual states was not sufficiently protected.² There can be no question that these historians were correct. Drayton spoke before the general assembly on January 20, 1778 and raised three major concerns: the sovereignty of the states; a fear that future Congresses might not understand the intent of the Articles as originally written; and the date for the first meeting of each Congress.³

¹This paper is a portion of "Securing Independence: The Articles of Confederation," Chapter 4 in Paul A. Horne, Jr., "Forgotten Leaders: South Carolina's Delegation to the Continental Congress, 1774-1789," unpublished dissertation, University of South Carolina, 1988.

²William M. Dabney and Marion Dargan, *William Henry Drayton and the American Revolution* (Albuquerque: University of New Mexico Press, 1962), 136-143; Merrill Jensen, *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* (Madison: University of Wisconsin Press, 1940), 186-187.

³William Henry Drayton, "Speech to the Assembly", 20 January 1778 (Charleston: David Bruce, 1778). Emphasis supplied by writer.

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That Drayton questioned the sovereignty of the states under Article II is somewhat ironic, for Thomas Burke of North Carolina and Thomas Heyward of South Carolina had secured the second article, which read: "Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled," to *protect* the sovereignty of the states.⁴ Drayton, however, believed that the article did not protect state sovereignty enough, because the states could not make treaties with foreign nations or each other, raise an army, coin money, or utilize other important powers. In association with this reservation, Drayton argued that future Congresses might "look for the *spirit* of the law" instead of its true intent. If they did not know the real intent of the articles, especially the ambiguous articles, the powers of the states might be further infringed in the future.⁵

Drayton's third concern was a matter of procedure. The Articles named the first Monday in November as the date for Congress to convene, but omitted instructions on when the states should elect their delegates. Most legislatures convened in January and finished their business in late spring; election of delegates during their regular session was impractical because the legislators might change their minds about a person or someone elected might become ill or die, and holding a special meeting of the legislature during the summer was equally impractical because many representatives would not attend a summer meeting. Drayton urged Congress to establish a specific election date or change the date Congress would convene. After outlining his concerns Drayton urged the general assembly not to rush into ratification of a government inspired by fear and a government which would not last. He said:

It is my duty to speak plainly on subjects which are designed to protect our civil rights....I scarce think the moment is at hand, for the ratification of a confederacy. Rather than adopt the articles before us, I would yet a little longer trust the ties that now bind *America* in union. The *American* confederacy should be the effect of wisdom, not of fear -- an act of deliberation, not of hurry. It should be a noble monument attracting the respect of the world -- and capable of drawing forth the administration and gratitude of our posterity.⁶

Drayton was not alone in the general assembly in offering changes in the document. Arthur Middleton "laboured hard" to convince the assembly to recommend that Congress apportion representation on the basis of land values, but to no avail.⁷ Indeed, Middleton had tried to convince Congress during the debate on the Articles to apportion representation on the basis of property and/or taxation, but he had only three

⁴Henry Steele Commager, ed., *Documents of American History* 2 vols. 9th ed. (Englewood Cliffs, N. J.: Prentice-Hall, 1973), I:111.

⁵Drayton, "Speech to the Assembly."

⁶Drayton, "Speech to the Assembly."

⁷John Lewis Gervais to Henry Laurens, 16 February 1778, in "Letters from John Lewis Gervais to Henry Laurens, 1777-1778," Raymond Starr, ed., in *South Carolina Historical Magazine* 66 (1965), 23-24.

or four supporters.⁸ Despite the efforts of Drayton and Middleton, the assembly only suggested twenty-one amendments, the most offered by any state, which it instructed its newly elected delegates William Henry Drayton, John Mathews, Richard Hutson, and Thomas Heyward to pursue. The assembly then issued a general ratification of the document which required no amendments.⁹

Once Drayton entered Congress, he became the South Carolina delegation's spokesman on the Articles. Drayton presented the amendments offered by South Carolina and then supposedly offered his own plan of confederation to Congress.¹⁰ There is no record in the *Journals of the Continental Congress* of Drayton submitting his plan, but Hezekiah Niles published the supposed plan in his 1822 work *Principles and Acts of the Revolution in America*. The proposal printed in the Niles edition concentrated on protecting state sovereignty and up to now has been accepted as the only viewpoint of Drayton on the Articles.¹¹

However, there is another Drayton work which historians have overlooked. This work, "History of the Confederation," a bound manuscript in the Historical Society of Pennsylvania, differs from the Niles edition. It is this manuscript which sheds new light on just what William Henry Drayton's views on confederation were, and it is to this manuscript that we turn. The work, fifty pages in length, contains several proposals for the Articles of Confederation. One of the most important proposals concerned the number of votes necessary to adopt a law. Under the Articles as drafted, nine votes were required on all important matters; Drayton wanted to increase the required number to eleven to preserve the "southern interest" and prevent the subjugation of the south by the eastern states. Drayton believed that the North and the South would eventually quarrel over political and social issues because the climate, soil and produce of each region was so vastly different. Though he knew that more than half of the territory of the United States lay in the South, and that the South was becoming more wealthy, he believed that "the honor, interest and sovereignty of the south, are in effect delivered up to the care of the North." The only way to prevent the quarrel from becoming overbearing was to require more than half of the Southern states to vote in favor of a law.¹²

Historians cite a similar proposal in the Niles edition in the past as evidence of Drayton's concern over southern interests. Jensen mentions it in his book *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution*. Drayton's biographers equate his concern with that of John C. Calhoun fifty years later, and they cite the proposal as evidence of Drayton's overwhelming concern for the southern interest.¹³

There is no doubt that Drayton was worried that southern interests would be

⁸Horne, "Forgotten Leaders," 195, 206.

⁹William Henry Drayton, "History of the Confederation," Historical Society of Pennsylvania, Philadelphia, Pennsylvania; John Lewis Gervais to Henry Laurens, 16 February 1778, *South Carolina Historical Magazine* 66 (1965), 23-24; and George D. Harmon, "The Proposed Amendments to the Articles of Confederation," in *South Atlantic Quarterly* 24 (1925), 298-301.

¹⁰Jensen, *The Articles of Confederation*, 187.

¹¹Hezekiah Niles, ed. *Principles and Acts of the Revolution in America* (Philadelphia, 1822), 357-374.

¹²Drayton, "History of the Confederation," p. 2; and, Harmon, "Proposed Amendments to the Articles," pp. 308-313.

¹³Niles, ed., *Principles and Acts*, 364-374; Jensen, *Articles of Confederation*, 187; and Dabney and Dargan, *William Henry Drayton*, 140-141.

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sacrificed in the future, but the proposal to increase the number of votes needed to adopt major legislation was only one part of a scheme Drayton presented to improve the efficiency of Congress and it should not be studied by itself. He suggested that each state elect its delegation on March 15 to provide continuity in the election process; more important, he felt that each state should be required to have three delegates present in order to vote on an issue. Having three delegates present would guarantee a state an affirmative or negative vote on every issue and prevent states from having no vote because of split delegations. Furthermore, Drayton argued that the apportionment of representation should not be equal. He believed that the most important states should have more delegates, and he used the requisition of 1777 as an illustration. If a state's requisition totaled less than \$300,000, that state would have three votes. The states of New Hampshire, Rhode Island, New York, New Jersey, Delaware, North Carolina and Georgia fell into this category. States whose requisitions lay between \$300,000 and \$800,000 -- Maryland, Connecticut, Pennsylvania and South Carolina -- would have six votes. The two remaining states, Virginia and Massachusetts, would have nine votes, as their quota was \$800,000 or more. To Drayton, however, the real barometer would be how much the state actually paid, not the amount of its quota; a state had to meet its requisition to receive the allotted votes, or representation would be altered accordingly. Drayton believed that South Carolina should have more than one vote, even if it had fewer votes than some of the other states.¹⁴

The most interesting aspect of Drayton's proposal to apportion representation in Congress was his failure to rectify the apportionment with his proposal to require eleven votes to pass a piece of major legislation. The two proposals just do not fit together. It appears that Drayton favored unequal representation over equality; he exerted more effort rationalizing apportionment than he did equal representation. Yet it is obvious that Drayton had not thoroughly formulated his suggestion for a method of voting under the Articles or he would not have proposed contradictory methods.

Drayton may not have reconciled the method of voting under the Articles, but he did decide on how to protect state sovereignty further. He offered several amendments to reduce the power given the national government in the draft of the Articles. He did not want Congress to be able to settle the disputes between two states, nor allow it to regulate the Indians who resided in any state. The Articles, argued Drayton, should guarantee all inhabitants of America, except tories, vagabonds, slaves, and fugitives, the same privileges and immunities. Drayton also wanted Congress to be responsible for its own debts, but he did not want Congress to have the power to levy an impost. Other suggestions to increase the power of the states included an amendment to allow extradition between states and he suggested a military quota in proportion to the number of inhabitants. To achieve the latter idea and improve the poorly working requisition system, Drayton urged the states to conduct a census on a frequent and regular basis. Another part of Drayton's quota proposal called for the states to supply their own troops, which would be loaned to the Continental Army. States could then use their militia to meet their troop quota. To further guarantee the sovereignty of the

¹⁴Drayton, "History of the Confederation," 42-47.

states, Drayton urged Congress to clarify all ambiguous articles and remove those which could not be sufficiently altered.¹⁵

One item Drayton saw in need of clarification was what actions constituted treason. Drayton wanted it defined so that America could rid itself of all people who refused to support the patriot cause, especially the Quakers of Pennsylvania. He believed that they hampered the war effort because they refused to fight for America. He cited numerous biblical examples to show the Quakers that pacifism was wrong: Jesus clearing the temple and Moses ordering the elimination of all non-Jews in Palestine were two. Though Drayton understood the beliefs of the Quakers, he defended his position: "True religion is the perfection of reason. Fanaticism is the disgrace, the destruction of reason."¹⁶ If the Quakers would not fight for their freedom, then they should not have the opportunity to enjoy it.

Other interesting proposals offered by Drayton included the election of Army and Navy officers by their troops instead of Congress, and a restriction on borrowing by Congress. He also wanted courts established in every state, which he viewed as a fundamental right, and a protection of the interests of the Southern states, especially slavery. Slavery could only be abolished in the United States if one-half of the states in the region voted to abolish it. To further protect the rights of the Southern states, he wanted to increase the number of states having to approve the admission of a new state from nine to eleven. The only exception would be Canada, which could join the union at any time. Finally, Drayton believed that July 4 should be revered and that no government business should occur that day.¹⁷

All of the proposals discussed so far increased state sovereignty. However, Drayton offered several proposals which actually reduced the power of the states. One of the most interesting proposals gave the United States control of the country's naval power; no state would have a navy except to fight specific cases of piracy. To maintain a well-trained navy and grant the states some control over it, each state was to establish a naval school and train five males for every 1000 inhabitants. Drayton believed that a strong navy would protect America not only from outside forces but from internal uprisings as well. Drayton also suggested establishing a specific order of rank among public officials for smooth government operation, with the president of Congress the top official. Following the president in order were the civil officers of the states, the commander-in-chief, the remaining generals of the army, the continental army, the militia of each state, and the inhabitants. Drayton hoped that this specific line of communication among the state and central government leaders would reduce jealousy among the state leaders, the army, and the people.¹⁸

All of the proposals offered by Drayton are interesting and merit our attention, but the most important arguments presented by Drayton in "History of the Confederation" centered on state obedience to Congressional decisions and the concept of divided sovereignty. These two principles provide the backbone for Drayton's state

¹⁵Drayton, "History of the Confederation," 13-18.

¹⁶Drayton, "History of the Confederation," 25-30.

¹⁷Drayton, "History of the Confederation," 20-41.

¹⁸Drayton, "History of the Confederation," 13-17.

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sovereignty beliefs, for without either of them a confederation would eventually fail. If the states were to have more power than the central government and the government was to work, the states had to adhere to the decisions of Congress. Drayton was not willing to give Congress the power to coerce states, but he did suggest that the states take an oath to uphold the confederation. Furthermore, if a state failed to pay its requisition by the required date, Drayton proposed a penalty equal to the amount of the original requisition. If a state refused to abide by other laws passed by Congress, it could be removed from the deliberations of Congress until it adhered to the laws.¹⁹

Congress had a reciprocal role, said Drayton; it had to observe the sovereignty of the states and the Articles, or the confederation would dissolve. Ironically, in an attempt to prove his legal prowess, Drayton cited the English jurist Blackstone, who acknowledged that sovereignty could only exist in one body of government, to back his point: "For whenever a question arises between the society at large and any magistrate vested with powers originally delegated by that society, it must be decided by the voice of that society itself; there is not upon earth any other tribunal to resort to."²⁰ Blackstone "recognized no legal limit on sovereignty," wrote August Spain later, but he did recognize that in every society there was "a supreme, irresistible, absolute, uncontrolled authority in which...the rights of sovereignty reside." Drayton, and later John C. Calhoun, assumed that this "uncontrolled authority" was natural law, and they both "modified the concept of sovereignty to fit their own needs...."²¹ Thus Drayton helped develop the American concept of divided sovereignty and may have influenced the political theory of John C. Calhoun.

Drayton offered numerous other suggestions in his "History of the Confederation," and at the end of the work he explained the purpose of his proposals. A trivial reason offered was that he wanted only thirteen articles in the Articles of Confederation. The real reason for his barrage of suggestions, however, was that he wanted to provide the United States with a better and long-lasting government. He advised Congress to exercise wisdom as it debated his suggestions, even though he acknowledged that the Articles needed to become operational in the near future.²²

Historians have interpreted his intentions differently. They agree that Drayton wanted a central government subordinate to the states, but they assert that his primary interest was to keep Southern interests from becoming second to those of New England. Drayton was concerned about the future of the South, and South Carolina, in the confederation, but his primary objective was to protect the state, the region, the whole nation from tyranny by one man or state. "History of the Confederation" was written to prevent the United States from falling into tyranny of any kind which resulted from an ambiguous framework of government or the reduction of state sovereignty. It is also possible that Drayton wrote "History of the Confederation" to further his influence in South Carolina and in Congress at the expense of his longtime rival Henry Laurens.²³

¹⁹Drayton, "History of the Confederation," 20-23.

²⁰Drayton, "History of the Confederation," 19.

²¹August O. Spain, *The Political Theory of John C. Calhoun* (New York: Bookman Associates, 1951), 165-166.

²²Drayton, "History of the Confederation," 48-50.

²³Horne, "Forgotten Leaders," 280-288; Dabney and Dargan, *Drayton*, 163-167; Coy Hilton James, *Silas Deane—Patriot or Traitor* (East Lansing: Michigan State University Press, 1975), vii.

Paul A. Horne, Jr.

Constraints of time and space prevent further examination of Drayton's actions on the Articles of Confederation. Yet from this partial examination of Drayton and his "History of the Confederation" we can formulate several conclusions. William Henry Drayton was not interested in unlimited state sovereignty as historians have portrayed him, nor was he concerned only with the Southern interest. Furthermore, he did propose some important constitutional ideas, some of which found their way into the Constitution, and others, which if they had been included, might have clarified issues which troubled the United States later. Drayton deserves closer scrutiny by historians, and perhaps the discovery of his "History of the Confederation" will help place him among the important constitutional theorists of the Revolutionary era in America. He was, after all, South Carolina's foremost spokesman on the Articles of Confederation.

A Frontier Not Extended: South Carolina, the Blue Ridge Railroad, and the Failure to Connect with the West, 1852-1860

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In 1852 South Carolina's dream of rails to the West seemed to have come true when the legislature granted a charter to the Blue Ridge Railroad Company. With the help of her neighboring states South Carolina was thus joining the westward commercial movement, but this glowing economic prospect would never come to fruition. An opportunity to increase the prominence of Charleston as an outlet to the West and increase economic activity with the West was missed.

Ethel B. Mitchell, in the "Foreword" to her brief study entitled *The Romance of the Blue Ridge Railroad*, states:

The uncompleted portion of the Blue Ridge Railroad stands today as a reminder of the staunch courage and wisdom of the men who visualized bringing financial and industrial development to the South....The aftermath of the great accomplishment of the Blue Ridge Railroad is praiseworthy....A RICH HERITAGE INDEED IS THE WISDOM AND FAR REACHING VISION OF NOBLE MEN.¹

Mitchell makes a valid point. Back in the early 1830's, men of vision (such as Robert Y. Hayne and John C. Calhoun) had proposed a railroad to transverse the northwestern section of South Carolina and connect the state with the West.²

Many states participated in the great railroad expansion during the two decades prior to 1860. Promoters were building roads with great vigor and expense to their state treasuries except for South Carolina. It failed to grasp its opportunities to obtain a line to the West. One opportunity missed was the proposed Louisville, Cincinnati, and Charleston Railroad of the late 1830's. This line was to connect Charleston with Cincinnati, tap the grain and livestock supplies of the midwest, and carry them to the sea

¹Ethel B. Mitchell, *The Romance of the Blue Ridge Railroad* (Pendleton, S.C.: Southern Printing Co., 1972), Foreword.

²John Bomar Cleveland, *Controversy between John C. Calhoun and Robert Y. Hayne as to the Proper Route of a Railroad from South Carolina to the West* (Spartanburg, S.C.: n.p., 1913), Hereafter referred to as "Cleveland."

for export to Europe.³ The railroad failed because of the financial panic of 1837, lack of state financial aid, and lack of public support.⁴

In 1852 the legislature granted a charter to the Blue Ridge Railroad Company and thus South Carolina was given a second chance to create an outlet to the West. An explanation of this second failure to connect South Carolina by rail to the bustling West can be seen in the history of the railroad, the failure of the contractors, and the apparent lack of vision of the leaders and the people of this state during the life of the railroad.

During the period 1850 through 1860 there was a large increase in the development and the use of railroads. Many states until this time had used canals to ship freight. Some states had even passed laws against railroads hauling freight in competition with canals.⁵ But railroads had the advantages of speed and year-round operation (canals closed down for the winter freeze) and could be located almost anywhere, regardless of terrain and the availability of water.⁶ These assets, combined with a slight price advantage, produced a victory for the railroads during the 1850's and by the end of the decade they took most of the nation's passenger traffic and carried more freight than the canals.⁷ The canals soon were just holes in the ground.

New York (in possession of the first great channel to the West, the Erie Canal) had the New York Central and the Erie Railroad; Boston, the Western Railroad; Philadelphia, the Pennsylvania Railroad, half-finished; and Baltimore, the Baltimore and Ohio Railroad.⁸ Growth and prosperity were not confined to the cities in which these railroads originated. The value of land and personal property along the rail routes had skyrocketed.⁹ Although these great enterprises had been costly and frequently mismanaged, they fully justified the wisdom of their projectors and even the optimism of some of the speculators. They proved that a connection with the great West was no longer an experiment.¹⁰

South Carolina was also experiencing great railroad activity. David Duncan Wallace states that the 1850's saw increased railroad construction and all but 239 of the 1,002 miles existing in the state in 1860 were built in eleven years.¹¹ These miles, however, were built for local traffic. South Carolina needed a railroad to connect its major port of Charleston with the growing trade of the West. Cincinnati, conversely, would profit from a railroad to Charleston. A railroad connecting Charleston with Cincinnati would be only 632 miles in length, while the route from Cincinnati to New York is 850 miles, to Philadelphia 750 miles, and to Baltimore about 700 miles.¹² Therefore Cincinnati

³Richard L. Saunders, Jr., "The Louisville, Cincinnati, and Charleston Railroad and the Elusive Hope for Intersectional Unity, 1835-1845" (unpublished master's thesis, University of Illinois, 1964), 1.

⁴Samuel M. Derrick, 11. *Centennial History of the South Carolina Railroad* (Columbia, S.C.: The State Co., 1930), 175-178. Hereafter referred to as "Derrick."

⁵Richard N. Current, et al., *The Essentials of American History to 1877* (New York: Alfred H. Knopf, 1977), 105.

⁶*Ibid*

⁷*Ibid*

⁸*Annual Report of the President and Chief Engineer to the Stockholders of the Blue Ridge Railroad Company, Held in Charleston, July 11, 1854* (Charleston, S.C.: Walker, Evans and Co., 1854), 13-14. Hereafter referred to as *Annual Report, 1854*.

⁹*Ibid*, 14.

¹⁰*Ibid*

¹¹David Duncan Wallace, *South Carolina: A Short History, 1520-1948* (Columbia, SC: University of South Carolina Press, 1961), 449-450.

¹²*Annual Report, 1854*, 16.

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could help Charleston establish a large direct foreign import trade and augment an already large export trade.¹³ A golden opportunity to make this economic dream a reality took shape in 1852 when the legislature of South Carolina chartered the Blue Ridge. Who would not support a great idea that would increase trade and prosperity in the state?

A convention called to promote a link to the sea by rail was held at Anderson, South Carolina on July 1-2, 1852, and delegates from Tennessee, Georgia, North and South Carolina were in attendance.¹⁴ Resolutions were passed expressing the convention's conviction of the practicability of constructing a railroad from Charleston to the valley of the Tennessee River.¹⁵ A delegate from Georgia proposed a resolution which was unanimously adopted:

In permitting the passage of a railroad from South Carolina through the Rabun Gap, the State of Georgia has given to her sister state the key to one of the two doors within her territory that open to the seacoast the trade of the West....No discrimination shall be made in favor of any particular route (through the Rabun Gap); but that said route shall be determined solely by its superior practicability and cheapness of construction....¹⁶

Support for the rail link to the West was also evident in the Legislature. Speeches made by B. F. Perry and J. D. Allen to the Legislature stressed the economic advantages of the Blue Ridge route.¹⁷

The proposed route to Knoxville and the West was to be a joint effort by South Carolina, Georgia, North Carolina and Tennessee. Each would construct a small part and connect at designated points. South Carolina's part, the roughest part of the whole road, was to start at Anderson and go through Pendleton and Walhalla to the Georgia line. Another difficult route was the Georgia line. It was to begin from the end of the North Carolina Railroad (at or near the Locust Stake) and then by way of Clayton to join the South Carolina line at the Georgia state line.¹⁸ North Carolina's part was to extend from the end of the Georgia line (near the Rabun Gap) and proceed through Franklin, N. C. to the Tennessee line. The Tennessee part of the road extended from the end of the North Carolina line (near the Little Tennessee River) to Knoxville.¹⁹

Obtaining money was a problem, but the *Annual Reports* asserted that the funds would surface. The legislature provided for the endorsement of the bonds of the

¹³*Ibid*

¹⁴George D. Brown "A History of the Blue Ridge Railroad, 1852-1874" (unpublished master's thesis: University of South Carolina, 1967), 20. Hereafter referred to as "Brown". This thesis was an economic history of the failed railway and incredibly detailed.

¹⁵*Ibid*

¹⁶*Ibid*

¹⁷*Speeches of B. F. Perry and J. D. Allen on the Blue Ridge Railroad* n.p., n.d. Obtained at the South Caroliniana Library, Columbia, S.C.

¹⁸*Annual Report of the President and the Directors to the Stockholders of the Blue Ridge Railroad Company in South Carolina, Held in Charleston, the 22nd of November, 1856* (Charleston: Walker, Evans and Co., 1856), 3. Hereafter referred to as *Annual Report, 1856*

¹⁹*Ibid*. Refer to Map on next page.

company to the extent of \$1,250,000 and required as security a first lien upon the road.²⁰ This stipulation, while it might answer the financial need, was seen as a potential limit to the company's resources and credit.²¹ The company therefore decided not to use the state funds but to ask the legislature to remove the restrictions on the money, and preferred instead that the legislature subscribe \$1,000,000 directly to its stock and take as security for the subscription a common mortgage with other bondholders.²² It was decided to petition the legislature at the next general session in 1855.

Charlestonians constituted the majority of the private subscribers and contributed almost \$1,049,000.²³ The total number of subscribers was 228 and it was hoped that more citizens would subscribe to the cause.²⁴ The total South Carolina capital on hand came to \$5,45000 and included the state guaranty which was not regarded as capital by the Board of Directors.²⁵ The Board was convinced that one-half of the capital should come from private sources to put the company on a sound financial footing. To cement the soundness and practicability of the project's route, Benjamin H. Latrobe, the distinguished Engineer-in-Chief of the Baltimore and Ohio Railroad, was invited to make an examination of the route from Anderson to the Georgia line. He firmly endorsed the proposed route.²⁶

Also in the *Annual Report of 1854* the Company reported news as to the progress of other states in filling gaps that would eventually link the Ohio River to the Atlantic seaboard. The states of Tennessee and Kentucky chartered roads that would connect Knoxville, Lexington, and Covington.²⁷ The long-awaited route to Cincinnati was now within reach.

Although problems with funding remained unresolved, the firm Anson Bangs and Company commended construction of the road in November 1853.²⁸ It was to do all the work from Anderson to Knoxville and payment was to be one-half in cash, one-fourth in bonds, and one-fourth in stock of the company.²⁹ Work on the line had thus far proceeded slowly, but the company was optimistic that the contractors would speed up the construction process.³⁰ With the only problem being the removal of the restrictions on the aid supplied by the legislature, the Blue Ridge seemed to be on its way. Great enthusiasm permeated the unlively pages of the *Annual Reports of 1854 and 1855*, but two unfortunate occurrences in 1855 and 1856 tainted the image of the railroad and destroyed the dream of link with the West.

In April 1856 the contractors, Anson Bangs and Company, were dismissed from the contract and the Blue Ridge Railroad Company stated that it would seek other

²⁰ *Annual Report, 1854*, 8.

²¹ *Ibid.*, 9.

²² *Ibid.*, 10.

²³ *Ibid.*, 10.

²⁴ *Annual Report, 1854*, 10.

²⁵ *Ibid.*

²⁶ *Ibid.*, 30.

²⁷ *Ibid.*

²⁸ *Annual Report 1854*, 5.

²⁹ *Ibid.*, 5-6.

³⁰ *Annual Report, 1854*, 11.

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contractors.³¹ The details of the dismissal were given in the *Annual Report of 1856*:

Anson and Eli T. Bangs were the only parties known to the President and Directors when the contract was made. They produced satisfactory certificates of their competency to perform the contract for the building of the road, by their experience as contractors in the construction of public works of the same character....The treaty was conducted by Anson Bangs; and with him alone all the terms and stipulations of the contract were discussed. The other parties to the contract, at first, were not named or known....After the session of the legislature in 1854, the President was surprised by the information that Anson and Eli T. Bangs, had, some time before the session, sold their interest to the other partners, and had withdrawn from the contract....The remaining partners...were importunate that the company should accept the new firm as Contractors instead of the old. This the Directors steadfastly refused to do.³²

The Board accepted the rule that when one or more members of a firm, with whom a contract has been made, withdraw from the partnership, the remaining partners may insist on the performance and claim the benefit of the contract.³³ But the Board also agreed that the rule was subject to an exception: A contract made with a partnership is made because of the confidence of the company in the skill, ability, capital, and qualification of certain partners--and those partners had now retired.³⁴ How was the Blue Ridge Company to know if the new contractors, now called A. Birdsall and Company, would perform to the standards Anson Bangs held? Another reason for the dismissal included the failure of Anson Bangs to follow specific directions given to it by the Chief Engineer. These included putting an adequate force on the bridge masonry in South Carolina and the tunnels in South Carolina and Georgia, plus furnishing 1600 tons of iron for the road between Anderson and Pendleton.³⁵

In January, 1855, the company received another shock:

...the President was surprised by the receipt of a letter from one R. Sutton Parry, in London, notifying him that he had purchased 25,000 tons of railroad iron from Guest and Company, on account of the Blue Ridge Railroad Company. No direction had been given to the Contractors to purchase iron, nor had they given to the Directors any notice of their intention to do so. Parry, in his letter, does not state the price of the iron, nor any of the contract; but requests an immediate remittance....³⁶

³¹*Annual Report, 1856, 6.*

³²*Ibid., 6-7.*

³³*Ibid., 7.*

³⁴*Ibid.*

³⁵*Ibid., 8-9.*

³⁶*Ibid., 9-10.*

It seems that Anson Bangs made a contract with Parry in September 1854 to furnish iron for the road at \$75 per ton and politely failed to notify the Board.³⁷ The Directors repudiated the contract and received an angry reply from Anson Bangs stating that as contractor it was in no way obligated to consult the Board or the Chief engineer!³⁸ Bangs and Company stubbornly refused to tell the Board the terms of the contract made with Parry, who complicated matters by disappearing.³⁹ The Board had contacts in London trying to find Parry, but he was nowhere to be found. To use one of his phrases, Parry "epitomised" himself as a "freeman of the port of Liverpool by servitude, and a citizen and spectacle maker of London."⁴⁰ It was therefore concluded that the contract for the iron never existed. The board deduced that Parry and the contractors were consorting to defraud the company. Upon further analysis, the cost of iron, freight and duties included, was \$55.⁴¹

According to the contract made with Anson Bangs, the time for completion of the road was four-and-a-half years from November 1, 1853.⁴² Nearly half the time for completing the road had elapsed when the frustrated Board dismissed the contractors in April 1856. A month before, the Board had hired a civil engineering firm to examine the state of the road. Its report declared that the road could not be completed within the stipulated time even with the largest force employed on every part of the road.⁴³ Bangs and Company had finished most of the grading, but this was useless without the bridges or tunnels. It seems that the contractors completed the easy parts of the road and left the harder sections untouched.

Such was part of the conclusive evidence that the contractors were swindlers. They had not followed the contract's stipulations and engaged in fraudulent activities. The dismissal of the contractors placed a stigma on the railroad that it never shook off. With the failure of the contractors came a period of trying to regain the enthusiasm that had characterized the early days of the project. The road could still be built and the link to the West saved, but the state had lost confidence in the railroad.

The problem of the dismissal of the swindling contractors was blithely put aside by the company as it concentrated on completing the road. The Board subset to other contractors and the road was slowly taking shape.⁴⁴ In the *Annual Report of 1857* the Board explained the work done and the work remaining by dividing the road into sections.⁴⁵ The track from Anderson to Pendleton was expected to be finished in December 1857 and the line opened early in 1858. From Pendleton, the road passed through country similar to the Anderson-Pendleton route and ended about one mile outside of Walhalla. The grading on this section neared completion. From this point

³⁷Ibid.

³⁸Ibid.

³⁹Ibid., 11.

⁴⁰Ibid.

⁴¹Ibid.

⁴²Ibid., 13.

⁴³Ibid.

⁴⁴Ibid., 19.

⁴⁵Report of the President and Directors to the Annual Meeting of the Stockholders of the Blue Ridge Railroad Company in South Carolina, Held in Charleston, 17th of November, 1857 (Charleston: Walker, Evans and Co., 1857), 4-11. Hereafter referred to as *Annual Report, 1857*.

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near Cane Creek to the Chauga River (which separates South Carolina and Georgia), the ascent of the Blue Ridge begins. A large portion of the mountain grading had been completed. The tunnels on this portion of the line included the Saddle, Middle, and Stump House. Both the Saddle and Middle tunnels were progressing satisfactorily. The Stump House tunnel was the major tunnel on the line and of greatest concern to the Board. The bulk of the difficult construction (like the Stump House) was concentrated in South Carolina and Georgia because of the Blue Ridge Mountains. In spite of the problems caused by the dismissal of the original contractors, work was progressing admirably. Now, however, money and support were running out.

Revenue promised by other states and by the legislature was not being received. The Board petitioned the legislature for more aid in 1857, 1858, and 1859, but each time the petitions were defeated. Support in the Legislature was obviously waning. L. W. Spratt, a member of the Legislature, was a friend of the project, but now could not vote for the funds because he saw South Carolina becoming the "leading and responsible actor in the enterprise" and denied that the road was "necessary to the power and progress of the state."⁴⁶ William Gregg, the textile pioneer, argued that the "future lay not in forwarding unpracticable projects of linking their ports with the Ohio Valley by railroads built with state subsidies, but rather in developing South Carolina by investment of their relatively idle funds in industrial enterprise." The promised land lay not beyond the Appalachians, but at home."⁴⁷

There were still those who supported the dream of a link with the West. In a reply to the speech of William Gregg a writer calling himself "Mercator" insisted that Gregg was not an opponent of the enterprise. By surveying his speech, "Mercator" concluded that Gregg wanted a railroad not to begin at Anderson but at Charleston itself.⁴⁸ George Trenholm attacked Gregg's inaccurate and "fallacious reasoning."⁴⁹ A series of articles in the *Charleston Courier* from "Blue Ridge" to an opponent stated:

...it was the duty of the state to make the additional subscription of two million of stock, and to guaranty the million of the company's bonds, which are necessary to complete the road....It is the duty of the state to provide facilities for trade...because connecting, as it will do, the territory of South Carolina with the Mississippi Valley, it is a great national highway not only for commerce, but for the military defense of the state, in which the people of South Carolina are universally interested....Railroads confer advantages greatly beyond and apart from the payment of dividends, and....They should be provided at the common cost of the people of the state....⁵⁰

⁴⁶L. W. Spratt, *Speech Upon the Blue Ridge Railroad Delivered in the House of Representatives of South Carolina, December 9, 1858* n.d., n.p., 1-2, 7. Located at South Caroliniana Library, Columbia, S.C.

⁴⁷Derrick, 176.

⁴⁸Mercator, *In Reply to the Speech of Mr. William Gregg* (Charleston: Walker, Evans and Co., 1857), 3-4.

⁴⁹The Blue Ridge Railroad: *Letters of Mr. George Trenholm and Mr. William Gregg* (Charleston: Walker, Evans and Co., 1860), 4-5.

⁵⁰*Blue Ridge to Nomulus: A Series of Articles Which Appeared Originally in the Charleston Mercury and Courier* (Charleston: Walker, Evans and Co., 1859), 27-28.

Another supporter, C. G. Memminger, appealed to all sections of the state for help in finishing the road and advocated a small addition to taxes to keep the work going.⁵¹

According to the *Annual Report of 1858*, 13 miles of road, from Anderson to Pendleton, had been put into operation.⁵² Locomotives and cars from the Greenville and Columbia Railroad were used until some could be purchased for the Blue Ridge.⁵³ Again, the work (if one could believe the *Annual Report*) seemed to be progressing smoothly. The Board stated that much work had been done, yet few miles of track had been laid. The fundamentals, such as grading, bridge and arch masonry, square drainage and culvert excavations took up much time.⁵⁴ The cost of the road in South Carolina and Georgia, which is seventy miles in length and only 35% of the distance to Knoxville, took up 58% of the estimated cost of the whole road.⁵⁵ This fact explained the slow progress—but also the discouragement. The road, without state aid or new private subscriptions, was slowly running out of money. By the end of 1858, 44% of the grading of the whole line was complete and 50% of the tunneling.⁵⁶ Again the Board recommended a petition to be presented at the next session of the Legislature, but the project was already dead.

At the end of the 1859 session of the South Carolina Legislature, the life of the Blue Ridge Railroad came to an abrupt end. This second opportunity to open a door to the West had almost been closed by the corruption of Anson Bangs and Company. Now the state itself slammed the door by abandoning an enterprise that, if completed, might have brought economic prosperity.

The problem of money was addressed by the opponents of the road. Once a friend of the road in the House, L. W. Spratt talked of South Carolina as being the "leading actor in the enterprise" and this he criticized. In fact, South Carolina paled in comparison to other states in contributions to railroads and could have afforded to become a leader. Virginia contributed \$10,028,000 to its roads; Tennessee, \$8,500,000; North Carolina and Georgia, \$5,000,000; South Carolina only contributed \$2,500,000.⁵⁷ In fact, the finances of South Carolina were sound. In 1856, when the dismissal of the contractors took place, the assets of the state outweighed the debts by almost a million dollars.⁵⁸ The Legislature could have intervened and completed the railroad. Any debt incurred by the completion of the road could easily be eradicated by taxes or some sort of state levy on goods shipped out of Charleston.

Annual Reports and speeches are full of examples of other roads that were making headway and incurring wealth, but the South Carolina Railroad—the old Charleston and Hamburg line—was a prime example. Its traffic had grown tremendously, and shippers and farmers were flourishing because of its availability to them. The most striking fact

⁵¹Speech of C. G. Memminger in the House of Representative of South Carolina on the Bill to Afford Aid to the Blue Ridge Railroad (December 1858) (Charleston: Walker, Evans and Co., 1859), 5-6.

⁵²Report of the President and Directors to the Annual Meeting of the Stockholders of the Blue Ridge Railroad Company in South Carolina, Held in Charleston, 10th November, 1858 (Charleston: Walker, Evans and Co., 1858), 6. Hereafter referred to as *Annual Report, 1858*.

⁵³*Ibid.*

⁵⁴*Ibid.*, 14-15.

⁵⁵*Ibid.*, 16.

⁵⁶Report of the President and Directors to the Annual Meeting of the Stockholders of the Blue Ridge Railroad Company in South Carolina, Held in Charleston, 22nd of November, 1859 (Charleston: Walker, Evans and Co., 1859), 3. Hereafter referred to as *Annual Report, 1859*.

⁵⁷*Annual Report, 1857*, 20-21.

⁵⁸*Ibid.*

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about this road (besides others) was the gross receipts of the road. In 1828, when the road was about to be commenced, the estimated receipts were thought to be about \$134,000. The road to Columbia was completed in 1842 and in 1844 the total gross earnings for the road jumped to \$533,00.³⁹ This should have been proof enough for the dollar-conscious opponents of the Blue Ridge that, if given time and support, the railroad would reap many benefits.

With the failure of the Blue Ridge Railroad, South Carolina lost an important economic route to the West. The noose of other states' railroads was tightening around the state. Virginia, Georgia, and North Carolina were spending huge amounts of money to increase their trade and transportation to the West. South Carolina was being left behind and would not have a rail link across the mountains for decades. This project had been a perfect opportunity to regain lost ground in relation to other states. The failure of the contractors and the lack of vision by the leaders and the people relegated South Carolina to a position of mediocrity. Expansion creates an image of foresight. The image of South Carolina after the failure of the Blue Ridge Railroad was of unwillingness to take chances to create new opportunities. The Blue Ridge was a lost opportunity.

³⁹Annual Report, 1855, 13-14.

Hog-Killin' Day: A New Look at the Bigham Murders

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There was good hog-killing weather on Saturday, January 15, 1921, as the day broke cold, gray and bleak in the Great Pee Dee area in eastern South Carolina. Farm workers on the Smiley Bigham land about twenty miles southeast of Florence began their chores with hog-killing. Sometime later in the day, a member of the Bigham family made an apparent transition to killing five persons in his family.

Five days later county authorities arrested Edmund Bigham, the son of one of the victims, accusing the 39-year-old of killing not only his mother, Dora, but also his older brother, Leonard Smiley, his married sister, Mrs. Marjorie Black, and her two small adopted boys Mack and Leo McCracken. Acting quickly, a coroner's jury found probable cause to hold the prisoner for trial.

The six-day trial began in the last week of March at the county seat of Florence.¹ Feeling that its strongest case against the accused was the murder of his brother, the prosecution tried Edmund first on that count. After deliberating the evidence for approximately three hours, the jury returned a guilty verdict against the defendant. As there was no recommendation for mercy, the presiding judge, R. W. Memminger, sentenced the convicted killer to die in the electric chair. But the trial only began a process of litigation that continued until April 1927, when a plea bargain resulted in a reduced sentence of life imprisonment for the financially exhausted defendant.

After the arrangement the "Last of the Bighams," forever pleading his innocence, remained incarcerated in the penitentiary in the state capital until 1959, while the legend of the Bighams smouldered and grew in the swamps of the Great Pee Dee area. In the summer of that year, Eugene Fallon, a staff writer for the *Florence Morning News*, who had moved into the area from outside of the state only in the previous year, travelled to the Central Correctional Institute in Columbia to interview Bigham, by then an octogenarian inmate. The old man made a lasting impression on the reporter. When Fallon asked the aged prisoner if he would like to talk about the crime for which he had been convicted, Edmund began to speak of the January day in 1921 not only with passion but almost with the obsession of Samuel Taylor Coleridge's ancient mariner. As he had done from the beginning, Edmund professed his innocence.²

As he had done countless times over almost four decades, without making any significant changes in his story, he recounted his recollections of the events on the day

¹*Florence Morning News Review*, March 30, 1921. Cited hereafter as *FMN*.

²*FMN*, August 19, 1959.

that five members of his family were murdered. After breakfast, Edmund related, he and his brother Smiley had spent an uneventful morning supervising several black workers in the hog-killing and cutting timber at the Bigham sawmill. In the early afternoon Edmund at the request of his brother made a trip of about a half mile to a neighbor's house. Edmund took with him his wife May and their two daughters, Louise, 13, and Evelyn, 9, to enjoy the ride in the 1920 Buick open touring car. After a trip that took about twenty minutes, the unsuspecting family returned to a scene of gothic horror.

As the words spilled out of Edmund's mouth, they painted a scene of macabre dimensions that sounded like the pen of William James in *The Turn of the Screw*. Approaching the homestead on the River Road which ran past the Bigham place, the adults could see a man running across the road in a dogtrot, carrying a pistol in his hand. The distance was not so great that the husband and wife could not plainly see that it was Smiley, fleeing into the woods. At that same moment, the four frozen spectators in shocked surprise saw Edmund's mother, a large woman of approximately two hundred pounds in her sixties, stagger grotesquely toward the River Road. Suffering from two pistol-shot wounds, one through the head and one through the neck, she scarcely managed to tell her alarmed son that "Smiley did it!" before she died.³

At the house the scene was even more ghastly. The younger McCracken boy was found dead from one pistol shot through his temple, lying on the connecting porchway between the house and the kitchen. Upstairs in her bedroom, lying partly in an open trunk and partly on the floor, was Edmund's sister, dead also from a lone pistol shot. On the door facing the inside of the room was the plain imprint of a man's left hand, etched in blood. As Edmund's left hand had been severed years before, this evidence became an important factor in the later trials.

Not long after dark the older McCracken boy was also found near death from a single pistol shot through his temple. Discovered in a potato-bed near the house, the eleven-year-old youth died early the next morning without regaining consciousness. On the same Sunday morning a search party found the body of Smiley somewhat less than a mile from the house, also dead from one pistol shot through the head. The coroner was heard to say that it looked like a suicide. If it were that, the fact that all the victims had been killed by the same weapon and that the mother was the only person shot twice, could also suggest that basically the massacre was a matricide with the other deaths only ancillary to that central event.

The prosecution saw it otherwise. Its scenario presented at the first trial put Edmund as the perpetrator of the multiple murders. According to the state's version, Edmund, an expert shot, first killed his brother Smiley in the woods, then, apparently to keep up normal appearances, went to crank the Buick for the trip to a neighbor's house. Because of the cold weather Edmund first had to pour a kettle of hot water on the car's manifold, then handcrank the stubborn machine with his only hand.⁴ After the auto began to sputter fitfully, he left his wife and two daughters in the noisy car and returned to the house to finish his grisly task. While his immediate family patiently waited, he shot his mother twice near the well in the front of the house. Then, in a presumed order, he

³Bigham v. State, 10 S.C. Supreme Court Transcripts and Briefs, October, 1925, p. 48.

⁴*Ibid.*, 192-194.

shot the smaller McCracken boy on the connecting porch, went upstairs and shot his sister, and finished the bloody work by killing the other McCracken youth in the potato-bed before returning to the idling Buick. As incredible as this account may be for fans of Alfred Hitchcock films, two juries believed it.

Stranger assertions than this have condemned innocent defendants. For example, Johnson C. Whittaker, a black cadet at West Point, was found alone in his room, unconscious, his hands tied behind his back, and marked "like they do hogs down South." Military officials claimed that Whittaker did all that to himself. A court martial accepted the official version.⁵ Then, in the early 1930's two juries, despite compelling medical evidence to the contrary, found the nine "Scottsboro boys" guilty of raping two women.⁶

Going a step beyond the series of newspaper articles written by Eugene Fallon, which had suggested that Smiley may have been the mass murderer before committing suicide, Katharine Boling, a native of Florence, published a book in 1972 about the murders using the factional concept employed so successfully by Truman Capote in his book *In Cold Blood*, also about multiple murders. In *A Piece of the Fox's Hide* Boling juxtaposed two chapters, the first relating how Smiley could have been the culprit, in the second showing Edmund as the murder.⁷ Whereas her case for Smiley as the murderer seems more credible than that for Edmund, Boling could have made an even stronger argument for the villain to have been Smiley if she had incorporated an historical approach. The works of W. J. Cash, Richard Maxwell Brown, John Hope Franklin, and others could have placed the killings in the larger context of Southern violence, particularly among the Southern white elite.

Another opus which could have been useful to Katherine Boling, but was not available until its publication in 1982, is Bertram Wyatt-Brown's *Southern Honor*.⁸ This book could have been especially helpful in providing a motive for Smiley as the perpetrator. Thinking only in conventional terms, L. M. Gasque, the county solicitor in 1921, could find no motive to support Smiley as a possible suspect. When interviewing Edmund in 1959, Fallon asked Edmund what he thought his brother's motive could have been. The elderly inmate circumspectly replied that the answer was "in the record." Indeed the answer was "in the record," but obliquely, subtly, and elusively. Wyatt-Brown's concept of Southern honor, however, brings Smiley's motive into sharper focus. Exceptionally helpful are the insights used by Wyatt-Brown from psychologist Helen Block Lewis' book *Shame and Guilt in Neurosis*.⁹

In the years immediately preceding the tragic day in 1921, Smiley, because of his incompetent management, watched the progressive deterioration of the Bigam River Road estate. More significantly, his widowed mother and his sister, separated from her husband, lived in the same house with the never-married brother in a bizarre ménage-à-trois. Only the talents of a William Faulkner or perhaps a Eugene O'Neill could have described adequately the endless, subtle, silent but effective emotional lacerations the

⁵John F. Marszalek, Jr., *Court-Martial: A Black Man in America* (New York: Charles Scribner's Sons, 1972), 238.

⁶Dan Carter, *Scottsboro: A Tragedy of the American South* (Baton Rouge: Louisiana University Press, 1969), 366-369.

⁷Katherine Boling, *A Piece of the Fox's Hide* (Columbia, S.C.: Sandlapper Press, Inc., 1972), 118-138.

⁸Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press), *passim*.

⁹Helen Block Lewis, *Shame and Guilt in Neurosis* (New York: International Universities Press, Inc., 1971), *passim*.

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hapless bachelor brother and son received from the female residents. In the rigidly patriarchal system in which they lived, male hegemony was seen as the absolutely highest value in the hierarchical system of Southern honor.¹⁰ The women's condescending tones, accusing eyes, and scornful facial expressions, however fleeting or covertly transmitted, must have been devastating to the elder male of the family, reared in a society to become, as W. J. Cash phrased it, "one helluva fellow."

Indeed, in an effort to secure a second trial for his client, Edmund's defense attorney introduced in court a series of controversial letters from Smiley to Edmund, who had moved out of the area in 1909, not to return until late 1920. The tone of the letters became increasingly pathetic as the years passed. In the beginning the letters chronicle a person hopelessly inept at administrative matters; they end with a rising paranoia about his distaff "Twa Corbies." In July 1918 Smiley wrote to his brother, "We are losing money every day. I am no farmer: You can make money farming, but I can't." In June 1920 he plaintively added: "It hurts me to know that the average tenant can get fertilizer on credit, but I could not." Finally, shortly before Edmund returned to the homestead in November 1920, the haunted Smiley was evident in his accusations. Referring to his mother and sister, Smiley wrote to Edmund that "causing trouble seems to be their pleasure." He also accused them of having "poisoned Father and tried to poison Leitha's child." [Leitha was another Bigham sister, then deceased]. He ended the letter melodramatically with "You will never see me again alive."¹¹ As in the court martial of Johnson C. Whittaker, there was a furious fight over the authenticity of the letters, but their tone does not seem to be inconsistent with the facts of the case or the character of Smiley.

In several significant ways the rise of the Bigham family to political, social, and economic prominence resembles that of the young Irish proto-type planter of the Old South described by W. J. Cash. Oddly isolated from the rest of the state, the Pee Dee area long retained a rough, violent, frontier-type character. To reach the top in such an environment, a successful man did not unduly rely on his sensitivity, refinement, and respect for the law. Indeed, according to Richard Maxwell Brown, the area was an important breeding ground for the regulator movement in the late eighteenth century.¹²

When Florence County was created in 1888 Smiley's father became the first state senator for the new county. The Bigham family had reached its zenith. A few years later the state senator met political defeat when he tried to rise to the congressional level. After that setback his fortunes declined in other sad ways until his death, in the first decade of the new century, under questionable circumstances.

In some peculiar way, the seeds of self-destruction seem to have been passed down to the elder son of the old patriarch. Shortly before his son's 21st birthday, the former state senator offered Smiley, who also bore his name, thirty acres of his own land if he would plow it himself. Disdainfully the prodigal son rejected the offer, claiming that only fools and mules worked. The elder soon also seems to have inherited the easy arrogance,

¹⁰Boling, *A Piece of the Fox's Hide*, 69.

¹¹Bigham v. State, 524-531.

¹²Richard Maxwell Brown, *The South Carolina Regulators*, (Cambridge, MA.: The Belknap Press of Harvard University Press, 1963).

the magisterial individualism, and the brooding wastrel spirit of the Southern patriarch.¹³

For a historian one of the most intriguing participants in this drama was Phillip H. Arrowsmith. Originally from the Georgetown area, Arrowsmith had been practicing law in Florence about two years prior to the day of the murders, in addition to several years of practice before his move to Florence. In his legal capacity he had helped Smiley, Marjorie, and Mrs. Bigham with their deeds. Only a week before the massacre he had seen Smiley and Marjorie in his office on some legal concerns.

After their deaths Arrowsmith became a veritable hound of justice determined to have Edmund convicted of the crimes. After urging the sheriff's office to arrest Edmund, the private attorney not only testified as a witness for the state, but also joined the solicitor as a member of the prosecution and had a black Bigham servant jailed as a material witness when he refused to testify. In the courtroom Arrowsmith was a relentless prosecutor with a histrionic flair and a bulldog persistence that culminated in his calling a respected retired judge, then serving as an attorney for Edmund, a liar. Both men exchanged physical blows in the courtroom before apologizing to the court.

But in 1927 when the plea bargain was advanced, this previous fierce advocate of gallows justice suddenly became virtually dumbstruck, simply announcing that "I do not think there is anything further to be said...."¹⁴ How can one account for this dramatic change in behavior? Perhaps he was emotionally drained, but, on the other hand, the most remarkable change in Arrowsmith, then and in the previous court battles, was his political position. Having won the race for state senator from Florence County in 1926, his political career must have seemed well launched.

If Arrowsmith had used the Bigham case to help his political ambitions, he certainly would not have been the first Southern lawyer to have done so. Hugh Dorsey, the solicitor in the Leo Frank trial in Atlanta in 1913, made good use of the publicity he gained there to advance his political career, as did the prosecutor in the Scottsboro trial. In addition, in the Frank case as in the Bigham case, there was another person with the motive and the opportunity to commit the crime. None of the facts would have to be twisted for one to believe strongly in the guilt of this individual, who was almost totally ignored by the law enforcement officers in their efforts to pursue the most favored suspect. Deeply troubled by societal forces they could not change and only inchoately perceive, as Leonard Dinnerstein has demonstrated so convincingly, the people of Atlanta created an atmosphere in which Jim Conley, who normally would have been a prime candidate for conviction if not for lynching, was passed over for a Jewish outsider who symbolized all the public feared.

In the Bigham case not only is there the *Angst* of the general *Zeitgeist*, coupled with the arrival of the bollweevil in Florence county in the previous year, but another German concept, *Schadenfreude*, also can be useful. If this is true, then Edmund became the chief suspect because he was the only Bigham alive, available, and germane.

Dinnerstein, moreover, showed the influential role of the Atlanta newspapers by their inflammatory, hostile, and heatedly partisan accounts that played a key role in the

¹³Bigham v. State, 286.

¹⁴J. A. Zeigler, *The Last of the Bighams: Being a True Story* (Florence, South Carolina: Author, 1927), 216.

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conviction of Leo Frank.¹⁵ In Florence the chief correspondent of the trial was John A. Zeigler, who later became editor of the *Florence Morning News*. His strong bias against Edmund is best revealed in his book *The Last of the Bighams*, based upon his reporting. The book is replete with assertions such as "you couldn't catch Edmund napping" to show how "cunning" this friend was. And when Edmund was not "cunning", he was "cringing."

When the plea bargain was struck in 1927, Zeigler entitled this chapter "Edmund Cheats Law," calling Edmund "Triumphant" when he was sent to prison for life for crimes which there is good reason to think he did not commit. As late as 1959, in response to Fallon's series, Zeigler wrote a long letter, not only affirming his continued belief in Edmund's guilt, but also adding, "I always thought that Edmund's wife was in on the plot."¹⁶

A final fascinating fact about the Bigham case is the easy, natural, and almost unobtrusive racism that flows like a putrid mountain brook through this lethal drama, echoing the words of the black poet Langston Hughes in his work *The South*: "The laughing lazy South, with blood in its mouth." Back in 1908 both Smiley and Edmund had been accused, along with one other white man, of the death of a sixteen-year-old black youth. The weapon of death had been a ten-penny nail that had been driven into his brain through the canal of his left ear. The supposed provocation for this crime had been that Smiley was convinced that the youth had injured one of his mules. A jury found all three not guilty.¹⁷

For good reason Andrew Singletary had been reluctant to testify at Edmund's first trial in 1921. Under interrogation by one of Edmund's attorneys, the black man, who had worked on the Bigham land, expressed that it was fear that explained his one-time silence, ending with "it was white folks' business."¹⁸ His final comment probably expressed the silent thoughts of many other black people in the area. Some people thought that a black person witnessed Edmund commit the crimes at the Bigham house. Two persons swore that an octogenarian former slave woman known as "Auntie Sylvia" told them she had seen the killings. Under a subpoena, she denied any knowledge. For the careful, disinterested observer it probably would have been better if all blacks had followed the instincts of Andrew Singletary and kept silent. It is evident that in the prevailing heavy climate of fear the majority of black people would have told the most threatening white person what the black person perceived the white person wanted to hear.

On the other side, Edmund's wife and older daughter provided interesting glimpses of the attitude of the whites in the area toward blacks. Under examination by Phillip Arrowsmith, who had asked her about the movement of some black person, Mary Bigham simply and convincingly responded, "It was not my business to keep up with the Negroes," sounding as if she were talking about livestock.¹⁹ A little later in the testimony an attorney asked Edmund's fourteen-year-old daughter whom she had seen at the Bigham house, and she replied earnestly and evenly, "I think, I am not sure about this, I think there were

¹⁵Leonard Dinnerstein, *The Leo Frank Case* (New York: Columbia University Press, 1968), 63-76.

¹⁶Zeigler, *The Last of the Bighams*, *passim* FMN, September 8, 1959.

¹⁷Bigham v. State, 191.

¹⁸*Ibid.*, 293.

¹⁹*Ibid.*, 152.

some darkeys there, two, maybe." The unaffected tone captured the same natural expression as the son of Nat Turner's master when William Styron wrote *The Confession of Nat Turner*, "Pa, the nigger's back."²⁰

Unless new evidence is adduced, which is highly improbable, any additional insights about the River Road crimes will come from sources far removed from the area. The probability is enormous that no one will ever know for a certainty who killed the five Bighams on January 15, 1921. This probability also holds true about whether Cadet Johnson C. Whittaker actually knocked himself unconscious, tied his hands behind his back, and marked himself "like they do hogs down South." The same can be said about whether the "Scottsboro boys" raped two white women on a train headed for Painted Rock, but rational, impartial, careful students may have their doubts.

²⁰*Ibid.*, 188; William Styron, *The Confessions of Nat Turner* (New York: Random House, Charles Scribner's Sons, 1968), 41.

CULTURAL VALUES AND ECONOMIC DEVELOPMENT IN ZIMBABWE 1980-1988 FIELD EXPERIENCES

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It is important for me to relate how and why I became interested in the interplay between cultural values and economic development. I left my native state of Zimbabwe at the age of twenty-two in 1969 and stayed in Europe and the United States of America until 1982 when I returned home to help in the economic development of the country. Economic development has been described by economists as the "upward movement of the whole social system and the transformation of a tradition-or authority-bound society into a modern, innovating, experimenting, progressive one."¹ My experience in Zimbabwe was that this description is too complicated to be of any practical use. The words "development" and "foreign aid" were used in common speech. New roads and new dams were understood as part of development. But the common people referred to their relatives who were living in brick houses, referred to as European-type houses, who owned automobiles and who by their countenance looked well-fed, as those who had benefitted from development. Emphasis was placed on the last one, which in translation meant that some people were better able to eat to their satisfaction than others. In summary, development means better housing, improved transportation and satisfactory food supplies.²

However, while most people are in favor of bigger houses, owning automobiles and the other symbols of modernity, they may not be willing to forgo some of their customs and traditional values in order to make this new way of life possible. This problem was identified by Booker T. Washington, the American black educator from Alabama in the nineteenth century. Washington realized that those blacks who aspired to the ideals mentioned above could not achieve them without paying a price by way of changing or adopting new cultural values. It was his belief that blacks would have to acquire white middle class values, morality, and economic competence if they were to uplift themselves. Washington believed that there was a difference between being "worked" and "working"

¹Goldthorpe, J. E., *The Sociology of the Third World* (Cambridge University Press, 1975), 3.

²Oral Evidence, Nemanwa Village in Masvingo Province, Zimbabwe. I am indebted to Mr. James Nemerai and Mr. Kingston Mazvidzwa, my assistants, for helping me to interpret the information. June 5, 1985.

for oneself. He therefore set out to instill in his fellow men the values of working and saving. This would create opportunity and self-respect. It is in this context that Washington made his famous remark that no "race that has anything to contribute to the markets of the world is long in any degree ostracized." I am aware that Washington was much abused for his views in his own time and later by the followers of W. E. B. DuBois, who considered him a lackey of the white man.³ That is not an issue here. What is of interest is that he obviously thought that cultural values can be taught and in that way changed within a foreseeable future. Secondly, it is obvious that he saw what Max Weber had seen, that the present capitalist system has its basis in the cultural values of a certain group of people who have been able to dominate the economic policies of their respective countries.

We now know that the cultural values described in this paper are characteristic of certain stages in the development of a people. Sheldon J. Watts, for instance, has shown in his book *A Social History of Western Europe* that many African values were commonly prevalent in European medieval society as well. Many values actually contradicted written laws. He says that: "This common understanding usually had little direct connection with the laws of the land--or with the official teachings of the Church."⁴ Thus custom was more effective than all the written laws of the church and the government. This paper will argue that Zimbabweans are caught in a transition from the rural lifestyle common among small independent farmers to the industrial revolution whose power and vortex are overwhelmingly in the cities. Since those industrial workers in the cities are the first generation in their families to leave the village, they are subject to the unconscious pull of rural values which do not apply to the city. Although I agree with Booker T. Washington that certain values can be taught, most values are changed gradually over a long period. This paper is about the clash between these values and the demands of "development."

Let us take the controversial thesis of the American psychologist David McClelland who is credited with developing the achievement theory. In summary, McClelland says that achievement motivation is drilled into a child at a very early age. The child, say at the age of six, is expected to know his way around the neighborhood, then gradually to develop a sense of individuality as a "self reliant master" of the things around him. The child shows signs of leadership at an early age, wants to be master of all that he surveys and his (or her) parents encourage this aggression, inventiveness, individuality, and sense of achievement. In American popular literature this has been called the push for excellence and sometimes such people are called high achievers and very often they have shown unsocial behavior in that they are too individualistic to co-operate with the group unless they themselves are in leadership positions. Whereas McClelland says that this characteristic can be taught and perhaps he is right, he does not realize that in fact he is talking about an aspect of American popular culture which is not universally accepted. This culture is buttressed in the United States by "incentives" and "rewards" of huge profits and excessive amounts of wealth to those whose motivation is allied with profitable

³Washington, B. T., *The Negro Problem* (New York Times Press, 1969 edition), IV. Also: *Booker T. Washington Papers*, L. R. Harlan, ed., Vol. 11, 1889-1895 (Illinois University Press, 1974), 583-586.

⁴Watts, Sheldon J., *A Social History of Western Europe 1450-1720* (Hutchinson University Library, London, 1984), 116-117.

inventiveness. The significant observation here is that this behavior is rewarded and encouraged. It is the behavior on which the free enterprise system is based. It presumes that the individual is calculating and engages in long-term planning regardless of society's approval.⁵

Julius Nyerere, long-time president of Tanzania and author of *Ujamaa*, says that in an African context the kind of behavior described above is anathema. "Even when you have an exceptionally intelligent and hard working millionaire the difference between his intelligence, his enterprise, his hard work, and those of other members of society cannot possibly be proportionate to his rewards. There must be something wrong in a society where one man, however hard working or clever he may be, can acquire as great a reward as a thousand of his fellows can acquire between them."⁶ The concept of individuality which is viewed as the paragon of all that is good in a free-enterprise society stands in exact opposition to the African concept of a well-ordered society. The individualist is creative and therefore brings about changes in the way things are done, in the way people think, and may even change human relationships. Above all, as we have already observed, free enterprise society brings about inequalities within the society. Young men bring new ideas and as such they have no use for old worn-out ideas by the gerontocracy. In fact, the opposite is held to be true. An African theologian said that "foolishness and ignorance are bound together and they are expected to be in the young. The Baluhya will say, had you seen your mother when she was a girl you would have considered your father wasting his dowry on her." Change of the structure of society was to be avoided at all costs. In dealing with disputes, no decision was reached until a consensus by the jury could be reached no matter how long it took. If need be, oracles were consulted.⁷ One cannot but notice the dichotomies between McClelland's ideal individualist and the African ideal personality. The emphasis on change, better and easier methods of doing things, when old methods are not at fault, was not something to be encouraged. In an African gerontocracy, old men and women were considered at least wiser than mere youths and were given the benefit of the doubt when found to be not so wise. One can see from the above that in formulating a development strategy the government and its European and American advisers make many assumptions which are contradicted by reality. There is an assumption that the natives are keen to digest and assimilate new ideas. There is a second assumption that youths educated abroad will broadcast these new ideas and that they themselves will show some traits of individualism and motivation over and above those of the community which they wish to change. Putting this argument differently, it was assumed that by teaching natives how to make bricks they would be desirous of building and living in brick houses. In Zimbabwe, after independence in 1980, all the village youth groups were organized into companies and one of the very first lessons they were taught was brick making. At almost every household in Masvingo province a shed was built to protect bricks from rain. These bricks were sold to schools and contracting companies in the cities where brick houses were compulsory. The bricks were therefore not used for the purposes for which they

⁵Goldthorpe, J. E., *op. cit.*

⁶Nyerere, J. K. *Ujamaa* (Oxford University Press, 1969), 3.

⁷Dickinson, K. and Ellingworth, P. (editors), *Biblical Revelation and African Beliefs* (Maryknoll 1969), 110 f.

had been intended.

Let me now turn to the often touted value of capital accumulation which is the bedrock of capitalism. Very few westerners appreciate how difficult it is for a Zimbabwean (or an African), who in fact may be getting a fabulous salary, to be able to save or to accumulate capital. All the forces of the traditional African society seem to militate against it. But before I discuss this issue, let me describe capital accumulation as it was described by Max Weber in his observation of the British Methodists.

According to Weber, the British Methodists exemplified the spirit of capitalism at its best in Britain. This spirit can be described as habits of thrift, saving today for the future, and a general habit of calculation with the future in mind. The thrifty organizations which resulted, as well as the banks, provided a great deal of the savings that could be utilized for capital investment. John Wesley observed that: "The Methodists in every place grow diligent and frugal, consequently they increase in (wealth)." He added: "We must continue to exhort all Christians to gain all they can, and save all they can, that is in effect, to grow rich."⁸

The result of these activities was the growth of commercial families in Great Britain, which at first were deeply rooted in the Puritan revolution. But Maurice Zunkin, comparing the growth of these Puritan families with businessmen in Asia (and in Africa) observed that it would be difficult to find the equivalent of the "Cadburys or the Chamberlains. Nowhere in Asia (or in Africa) in the past could the merchant hope one day to be the mayor of his city."⁹

The general African view of wealth as expressed by Nyerere has already been discussed above. It is interesting to note that this view is very commonly held in African popular culture. For instance, even though the Republic of Zaire follows a capitalist path to economic development, in fact its official policy is called African socialism. In Zambia the official policy is called "humanism," which is an attempt to place the needs of man above the needs of capital. The following passage is quoted from the *Sunday Mail* of Zimbabwe. It says that "the wealth of nations, created by the working people, should (not) be appropriated as private loot by a small class of individuals on the pretext that it is the reward for personal effort."¹⁰

Personal savings in the context in which the Methodists used them were originally intended as a cushion for a rainy day or for the time when one was no longer able to work. Nyerere addressed this same issue of retirement and reached a different result from that reached by the Methodists. No "individual within the (African) society should worry about what will happen to him tomorrow if he does not hoard wealth today. Society should look after him, or his widow or his orphans."¹¹

In fact, it is this heavy responsibility of the extended family that is such a burden to any Zimbabwean returning home. A Zimbabwean who finds himself in a high position can carry out some of his responsibilities to the large extended family by distributing government jobs within his power to members of his family. A man of consequence,

⁸Weber, M., *The Protestant Ethic and the Rise of Capitalism* (Scribner Library 1958), 175.

⁹Zunkin, M., *Development for Free Asia* (Greenwood Press, 1956), 23.

¹⁰*Sunday Mail*, July 10, 1988. Editorial.

¹¹Nyerere, J. K. *op. cit.*, 3.

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whether in politics or in business, must provide for weddings and funerals on a lavish scale. On these occasions, neighbors attend both to participate and to observe the generosity of the host. A man of distinction finds himself invited to numerous occasions and expected to contribute on a scale which he cannot possibly cope with from personal savings. The cost of social distinction seems to be much higher than an equal position would be in the United States.

This paper does not wish to give the impression that savings are unknown in the Zimbabwean situation under observation. The paper does suggest that the savings that are accumulated from personal savings are not large enough to provide sufficient funds for capital formation on a scale large enough to create an economic takeoff. There are many large herds of cattle in the countryside and the peasant farmers have large surpluses of grain if the rains are good. A careful inquiry will discover that most of the cattle are already spoken for, for the marriage of children and other group activities. The owner does not hold them on his own behalf or entirely for his own pleasure. To do so would be considered unsociable behavior.¹²

There is also another reason why it was difficult to accumulate personal savings in the post-independent Zimbabwe even among the well-to-do. The constancy of gift giving had a debilitating effect on savings. Gift giving had become institutionalized in such a way that kinship as well as social and political relationships involve obligatory gift giving, and that gift giving was done whether or not the giver felt goodwill towards the recipient. Between 1980 and 1988, formal employment directly associated with government employment jumped from thirty percent of all total employment to eighty percent. This meant that in one way or another employment and promotion was associated with the political standing of the individual seeking employment or promotion. Whenever a politician visited the provincial capital, all heads of departments and senior officials were forewarned and expected to pay their respects. Hospitality was often paid for by those who had come to give their respects to the politician. A politician's wedding was announced three months in advance and the names of officials in his department circulated and the amount of gifts carefully noted down in writing and handed over publicly to the minister in question on his wedding day. The fact that this was the twelfth known woman to have caught his fancy did not lessen the enthusiasm of the givers. In fairness to the politician described above, there were certain honored guests who were invited to his farm after the wedding. All those invited came back with a basketful of eggs and potatoes.¹³

LeVine, an American psychologist, observed in 1976 that any African aspiring to leadership and high office is expected to be generous with his wealth. He therefore disburses it as soon as he acquires it. Every "African of relatively great wealth is besieged by potentially devoted followers seeking financial assistance and hospitality: a man with political aspirations must satisfy as many as he possibly can, straining his resources to the utmost. He is besieged by lackeys, who want him to use his influence to settle family matters, give letters of recommendation and give advice on very personal

¹²Oral Evidence. August 6, 1985. Conversation with Chief Senator Charumbira of Masvingo Province.

¹³Oral Evidence. August 6, 1985. Masvingo Province.

matters."¹⁴

Family includes all the members of one's village, which in many cases can easily number a few hundred. Although the immediate members of one's family have preference and a claim on gifts, financial assistance, and hospitality, all the people from one's village also have a claim of some sort to the generosity provided to one's immediate family, though on a lesser scale. Valuable assistance goes to the needy in one's village whether these are personally known to the giver or not. C. P. Lloyd in his *Africa In Social Change* (1967) calculated that out of a modest salary of \$10,000 per annum (1967) in a West African city, a quarter of this sum was spent on relatives. Lloyd witnessed a case where a medical doctor who had just returned from England was taken to court by relatives when he failed to support them. Lloyd argues that this need constantly to support poorer relatives explains the pervasive nepotism and over-employment in African establishments.¹⁵

It is clear from the above that the financial responsibilities that must be shouldered by the better-off Zimbabweans make the accumulation of savings a distant goal for the majority of the African elite. Even the so-called businessman is hampered by family obligations to an extent unknown in Europe or the United States. It is therefore an inescapable conclusion that no significant capital formation can be expected in an African country from this quarter.

We must now turn to that part of the economic system Max Weber calls the irrational as compared to the rational (or modern) system of exchange. This is a theme to which Weber returns time and again. The traditional society in Masvingo province in Zimbabwe falls into that category where exchanges between the people, in this case between commoners (called *povo*) and their political superiors, are obligatory and therefore irrational. There are many nuances which cannot be foreseen in advance and therefore are unpredictable. These obligations, though for the most part not clearly defined, are real and inescapable. On the other hand, in modern society, obligations are formal and by Weber's terminology rational. Weber placed a lot of emphasis on rationality. A businessman, in calculating where and when to manufacture, buy and sell his goods, must be assured as far as is possible that the market (indeed the society in which he operates) will behave rationally. The absence of rationality (which I have translated to mean predictable behavior) means that the capitalist cannot set his price rationally by judging the costs of inputs. Apologies may well say that the rules of the game in an African society are predictable and are well known in advance. The actual demands on the individual are predictable in the sense that they are constantly changing. There is no way of knowing how many political visitors will demand hospitality free of charge in any particular month and therefore the cost of such hospitality is unpredictable. In another example, whereas in theory the political minister is separated from his private personality, should he visit the district while on holiday and with his family and children, hospitality is still given without charge. In another example, although the police are separated from the judiciary, in actual fact, the ultimate authority is the same. LeVine

¹⁴DeVoss, G., editor. *Responses to Change* (Van Nostrand, New York, 1976). Article entitled "Patterns of Personality in Africa" by LeVine, 112-127.

¹⁵Lloyd, C. P., *Africa in Social Change* (Penguin, London, 1967), 187, 191.

understood the mixture of roles perfectly when he wrote that:

"We have legislators, judges, and administrators in our government, but Africans have chiefs whose roles often include all three functions, and are not even limited to government in our narrow sense of the term. I want to call attention to its characteristically African forms and to the expectations that Africans bring to authority."¹⁶

In the area in which I worked, this confusion of roles (confusion to outsiders only) forms the basis of what may appear to be corruption, or the use of influence by one person in an area over which he has no apparent authority. The confusion has been worsened by post-independence rules which have allowed the party functionaries to be paid by the state treasury instead of by the party treasury. The separation of powers between the judiciary and the police has further been destroyed. The Central Intelligence Office, a branch of the security system, has power to arrest and imprison people without interference from the judiciary. There is a precedent in the colonial system as well. In the colonial system, an official designated as district commissioner was at once the chief magistrate and the chief law enforcement officer in his district. Because of the leader's all-pervasive influence, he has menial tasks performed for him by people seeking favors, and his influence knows no limits in the minds of admirers.

This centralization of authority has a direct relationship to economic development which has not been hitherto emphasized by economic planners. Such concentration of authority in a few hands stifles non-governmental enterprises. More often than not, tribute is demanded from all those who wish to do business within a certain jurisdiction. This tribute is not always monetary and may take the form of obsequiousness or simply giving respect to the powers that be. This obsequiousness, which must be given in public as an example to aspiring beneficiaries, is time-consuming and in the long run self-defeating to a would-be entrepreneur. The entrepreneur lives constantly in the shadow of the political "big man" and at his mercy. When a provincial political big-whig announced the wedding of his nineteenth son by his third wife, careful lists of all provincial notables were circulated, their gifts recorded and presented to the big man himself at the wedding ceremony. This author was invited to a wedding ceremony of another "big man", sixty-five years old, who was getting married to a nineteen-year-old, his sixth wife. Whenever the governor visits any town, similar demands of hospitality are made on the citizens of that town. Failure to show respect will be visited by the closure of one's place of business. An entrepreneur who is wise should include gift giving as his cost of doing business.¹⁷

Perhaps the most controversial aspect of Max Weber's theory has to do with the work ethic which he calls a "calling." The Puritan worker is dependable, works for work's sake, is punctual, honest, and all in all is a paragon of virtue. Weber quotes St. Paul's

¹⁶DeVoss, G., *op. cit.*

¹⁷Oral Evidence. August 28, 1985. Masvingo Province. Informant wishes to remain anonymous.

letter to the Corinthians 1 (VII) 20-24. "The servant, if he does his work dutifully, is as worthy as his master." Every man must be satisfied with his work (or calling), whether he be a servant or a master. Weber observed that while Turkish immigrant workers in Germany were cheaper initially, in the long run one sturdy German was worth three Turkish immigrants. The Turkish immigrants were more likely to put down their tools at the slightest provocation and, in any case, if they surmised that they had earned enough money to satisfy their immediate wants, they packed and left. The Puritan worker by contrast, is diligent, persevering, and takes up work as a religious duty rather than a temporary task.¹⁸

Although it is true that as early as the turn of the century missionaries talked about the "new African," such a creature as described by Weber is a creation of the industrial revolution. One should not expect to see such a worker in the rural area in which I worked. Nyerere has postulated three principles which govern work and society in a traditional African context. First, each member of the family recognizes the strengths and weaknesses of the other members of the family and with mutual respect tries to cover-up for the others. Secondly, all basic goods are held in common. Thirdly, every member of the tribe is expected to take part in the work according to his ability.¹⁹

It is precisely the principle of a common denominator which puts a brake on any individual initiative. In any case, wealth is not created for its own sake. Even if there were some surplus wealth, it would have to be shared equally by all the members of the society, including those who had contributed least to it. Nyerere has argued time and again that the creation of wealth for its own sake is to be regarded as an evil. Work therefore could not be undertaken for its own sake. Only work which has a direct bearing on community welfare is considered necessary. It should also be noted that before undertaking any new task, the community elders would have to reach a consensus, a practice which tends to rule out new and untried ideas.

In conclusion, one must accept the fact that the traditional values in Masvingo Province, if they are allowed to hold sway, militate against new enterprises especially where these will be seen to benefit individuals. The general acceptance of the value of community sharing of goods tends to destroy personal initiative and personal creation of wealth. Even where individuals have accumulated vast amounts of wealth, the demands made on them are such that they are not likely to keep the wealth for very long unless they opt out of the societal values. The constant demands of obligatory gift giving destroy the savings base of individuals. Without any stable base in individual savings, capital growth cannot be funded from that quarter by any combination of businessmen. Economic development, where this demands large amounts of accumulated capital, can only come from government (through forced taxation) in the foreseeable future. Even if combinations of individuals were to come forward with capital, the social structure is such that they could not possibly succeed without government support. They must be seen to be subservient to the government and be part of the obligatory gift-giving customs. The business climate as we know it in the United States does not therefore

¹⁸Weber, M., *op. cit.*, 115 ff.

¹⁹Nyerere, J. K., *op. cit.*, 107.

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exist in the African context. If these assumptions are correct and they hold sway over the foreseeable future, African societies will have to accept lower levels of economic growth than they themselves would wish for. Low levels of growth are inherent in their cultural values.

CHINA'S MODERNIZATION: THE PERILS OF PROGRESS

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China's modernization program has been in place for a decade, and on the surface it appears to have been a remarkable success: China is experiencing an unprecedented period of prosperity and progress. Much of what has been written about China recently has focused on the many positive aspects of China's modernization policies.

This paper would like to suggest that there is another way of looking at what is going on in China--another way of viewing the modernization program. The program is, in fact, recreating many of the problems of the old China-- problems that enabled the Communists to seize power in the first place. So, in a sense, China's current great leap forward is a great leap backward. To support this notion, we need to look back at the two decades prior to "liberation" and examine the goals of the Chinese Communist Party. The Communists had five general objectives.

The first was the elimination of foreign domination and exploitation of China. Specifically, the Communists sought to dismantle the unequal treaty system and eliminate the foreign concession areas. Beyond that they wanted to erase all of the special privileges that foreigners had enjoyed since the Opium War.

The second objective was the elimination of economic inequities. The plan was to end the economic exploitation of peasants by the landlord class and of factory workers by their employers. The Communists also sought to create a centralized economic system that could strictly control wages and prices, provide full employment and, above all, prevent inflationary disasters of the kind experienced under the Nationalists.

A third, and closely related, objective was the elimination of the privileged elite from Chinese society. The landlord class was a primary target, but the Communists also aimed their criticism at government bureaucrats, military officers, and urban capitalists, all of whom enjoyed a privileged status during the Nationalist era.

The fourth objective was the elimination of "feudal thinking," Communist parlance for the attitudes promoted by the old society. The Communists regarded

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Confucianism as especially damaging, because it elevated family above nation, kept women in a state of near bondage, and promoted practices such as lavish weddings and funerals that impoverished the people. Religion, both "folk" and formal, was criticized because it bred a sense of submissiveness and resignation among the masses. "Feudal thinking" also included excessive materialism and individualism, both of which the Communists hoped to erase from Chinese life.

The fifth objective was the elimination of what the Communists regarded as the "evil trappings" of the old society. Opium addiction, prostitution, criminal activity, nepotism, and corruption were all included in this category.

The Communists argued that China was in such an advanced state of decay that only a revolution, followed by a root-and-branch reform program based upon these five objectives, could save the country. Enough Chinese were convinced of the soundness of the argument that the Communists were able to win control of China in 1949.

The changes that the Communists proposed were of such a fundamental nature that success in achieving them seemed unlikely. Yet for some three decades after 1949 it appeared that the Communists were indeed succeeding. A traveler, returning to China in 1979 after a thirty-year absence, would have been astonished at the degree to which the Communists had changed the face of Chinese society. However, after those thirty years one critical problem remained: China was still desperately poor, and lagged dangerously far behind the world's advanced industrial nations. This is what prompted the party leadership in the late 1970's to launch the current modernization program. The goal was to revitalize the economy and catch up with the economic superpowers.

Two policies were at the heart of the modernization effort. First, the responsibility system was introduced, injecting a dose of private enterprise into agriculture and industry. Second, the government made a concerted effort to improve Chinese technology. This effort had several components, including the acquisition of foreign technology, the encouragement of foreign investment, the use of foreign experts to teach and advise, and the concentration of educational funds in a few "key universities" to which China's "best and brightest" students were sent.

The modernization program has produced breathtaking changes. The China of 1989 is much more open, productive, and prosperous than the China of 1979. Yet there is an underside to this success story. The modernization program has recreated many of the problems that plagued the old society—problems that brought on the Communist revolution in the first place. Ironically, the Communists have recreated the very conditions that they so vehemently attacked in the pre-revolution days. To demonstrate the point, we can go back to the Communists' pre-1949 objectives, and see how they relate to conditions today.

First, they sought to eliminate the foreign domination and exploitation of China and erase the special privileges enjoyed by the foreigners. Yet today foreigners, whether visiting experts or tourists, are given special treatment, much to the distress of ordinary Chinese. There are no concession areas today, but the Special Economic Zones and Western hotel and shop complexes are little islands of Western privilege where a "no dogs or Chinese" sign would not seem out of place.

Second, the Communists sought to eliminate economic inequities. However, the modernization program promotes inequities. The responsibility system has created a widening gap between rich and poor, a rise in unemployment, an increase in the number of beggars on the streets and, worse of all, a rise in land tenancy. The relaxation of central planning inherent in the system has heated up inflation to the point where older Chinese are openly comparing the current problem to that of the Nationalist era. Perhaps the best example of inequities can be seen in the drastically different conditions that exist in the prosperous coastal areas and in the much poorer, neglected interior.

The third objective, the elimination of a privileged elite, has been completely abandoned in the last decade. Bureaucrats, cadres, military officers, urban entrepreneurs, and members of the new landlord class all enjoy a privileged position in Chinese society. They constitute an elite class based upon wealth--wealth made possible by the prosperity created by the modernization program.

The fourth objective, the elimination of "feudal thinking," has also been battered. Confucianism is alive and well in China, as are many of the trappings of Confucianism, such as lavish weddings and funerals and ancestor worship. The status of women has actually deteriorated as a result of the modernization policies. Religious practices have resurfaced, and, by proclaiming that "to get rich is glorious," China's leaders have promoted excessive materialism and individualism.

The fifth objective was the elimination of the "evil trappings" of the old society. Yet crime, nepotism, corruption, prostitution, and drug abuse are on the rise. Prosperity, the influx of Westerners and Western ideas, and the relaxation of central controls have created an atmosphere in which all of these activities can thrive.

I do not want to suggest that all of these problems exist to the degree to which they did in the 1930's and 1940's. Nor do I want to suggest that another revolution is imminent, that the Mandate of Heaven is changing. However, the problems are sufficiently serious to disturb many Chinese. If the government does not address these problems, we eventually may see events going full circle. The Communists may lose power for the same reasons that they gained power.

Legal Theories of the Nuremberg and Stockholm-Roskilde Tribunals

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The Nuremberg trial of Nazi leaders after World War II and the 1967 Stockholm-Roskilde trial of American leaders in conjunction with the Vietnam War were novel attempts to apply some international standard of accountability to political and military authorities for their war-related conduct. Both trials asserted innovative theories of jurisdiction over the defendant parties and both prosecutions advanced extraordinary principles and definitions of crime. On the other hand, the historical context in which the trials were conducted and the nature and identity of the prosecuting agencies were very different; so, indeed, were the results.

Prior to World War II international lawyers and legal theorists had been groping toward a legal theory or theories applicable to the international conduct of civilian and military authorities.¹ The Hague Conventions of 1899 and 1907, based upon the codification of the customs of warfare, provided concrete standards of conduct approved by most of the major nations of the world, but had a very limited focus.²

The First World War broke out in 1914 amid a furious exchange of acrimonious accusations: the Central Powers and the Allies denounced each other for causing the war and issued tendentious official accounts of the origins of the war. The unexpected length and violence of the war and the transformation of the conflict into total war led inevitably to the political expression of a desire to exact revenge on the enemy in many ways, including the demand that the enemy states be forced to pay reparations and that their leadership be held to account after the war.³ The Allies wanted to proceed not only on the basis of the Hague conventions but also on the legal theory that political decisions were violative.⁴

¹Robert H. Jackson, "Nuremberg in Retrospect," *American Bar Association Journal*, XXXV (1949), 885.

²Ronald B. Kirkemo, *An Introduction to International Law* (Chicago: Nelson-Hall, 1974), 195-207.

³Article 228 of the Treaty of Versailles provided for the trial of German officials for war crimes. Alan M. Wilner, "Superior Orders as a Defense to Violations of International Criminal Laws," *Maryland Law Review*, XXVI (Spring 1966), 127-134.

⁴*Llandovery Castle* case (1923). *Annual Digest*, 436, (No. 235). The *Llandovery Castle* prosecution involved German officers as defendants for attacking an Allied hospital ship and killing survivors.

In the inflamed atmosphere of the Paris Peace Conference of 1919 the Allies appointed the Commission of Fifteen to determine the responsibility for starting the First World War and to identify and define such atrocities as had been committed during the conflict.⁵ The Commission found culpability on the part of states which had violated international law, but did not find acts of aggression in violation of treaty to be crimes. On the theory that the institutions at the Hague were purely optional (e.g., that the International Commission on Inquiry, Mediation, and Arbitration had no compulsory jurisdiction over the nations) the acts of aggression perpetrated by Germany were not deemed to be violations of international law; hence they were not crimes.⁶ Furthermore, the Commission concluded that the trial of public officials of the defeated nations would confront serious problems of proof, especially of reliance upon witnesses; in addition, the expeditious trial and punishment of the accused did not seem feasible.⁷

The Commission of Fifteen, appreciating the lack of standards and enforcement institutions, proposed the adoption of special measures and the creation of a special organ "for the future" so that subsequent violations of international law could be defined, tried, and punished.⁸ Unfortunately, the Commission's recommendation was virtually ignored during the interwar period and the meretricious Kellogg-Briand Pact of 1928 did little to advance the recommendation either, although some authorities contended that the Pact made war a crime.⁹ The problem of defining international crime was compounded by the related problem of guilt and responsibility--were civilian and military officials guilty? Was the state guilty? Were both guilty?¹⁰

The Second World War raised these questions in a much more compelling way than World War I. The totality of the conflict, the egregious nature of Nazi aggressions, the extermination of millions of civilians, and the gross violations of the customs of war by the Axis states provoked the Allies to formulate standards and procedures for condemning Axis conduct which they implemented after the war against the Axis leadership. The war crimes trials proceeded on the theory of three categories of illegal actions: (1) conspiracy to perpetrate aggressive war and the act

⁵The Commission of Fifteen was assigned the task of determining whether the German invasion violated the Treaty of London (1867) and the Belgian neutrality treaties of 1839. Sheldon Glueck, *The Nuremberg Trial and Aggressive War* (New York: A.A. Knopf, 1946), 14-16. The Commission, created on January 25, 1919 (Minute No. 2) was charged to inquire into the following questions: (1) "the responsibility of the authors of the war"; (2) "the facts as to breaches of the laws and customs of war..."; (3) "the degree of responsibility for these offenses attaching to particular members of the enemy forces; and (4) "The constitution and procedure of a tribunal appropriate for the trial of these offenses..." *Report Presented to the Preliminary Peace Conference, March 29, 1919*, Pamphlet No. 32, Division of International Law (Washington, D.C.: Carnegie Endowment for International Peace, 1919).

⁶Note that the Kellogg-Briand Pact of 1928 upon which the Nuremberg prosecution based its charge of crimes against peace did not exist prior to World War I. Jackson, 885.

⁷Charles G. Fenwick, *International Law* (New York: Appleton-Century-Crofts, 1965), 759.

⁸Glueck, 15-16. Among the types of crimes defined by the Commission were the following: (1) murders and massacres; systematic terrorism; (2) putting hostages to death; (3) torture of civilians; (4) deliberate starvation of civilians; and (5) rape. These heads of charges foreshadowed some of the grounds of the Nuremberg indictments. Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties, "Report Presented to the Preliminary Peace Conference, March 29, 1919," *American Journal of International Law*, XIV (1920), 114.

⁹Glueck, 14-19. Mr. Jaroslav Zourek and others argued that the Kellogg-Briand Pact did not make war a crime, but only a violation of international law. On the other hand, Frangulis argues that the Pact "proclaimed war to be a crime....Hence, in our time penal sanctions are possible, although this was not the case in respect to the war of 1914 and its authors".

¹⁰Justice Robert Jackson noted in 1945 that the time had come to "make clear to the world that those who lead their nations into aggressive war face individual accountability for such acts". (1945) 13 *U.S. Department of State Bulletin*, 227.

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of aggression itself; (2) war crimes; and (3) crimes against humanity. The theory of criminal culpability was developed in terms of individual responsibility for the three types of illegal actions.¹¹ The international tribunals at Nuremberg and at Tokyo operated under charters which defined both the crime and the culpability of the parties. The Charter under which the International Military Tribunal at Nuremberg operated authorized the punishment of "persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes...for which there shall be individual responsibility." The Charter then listed and defined the major types of crimes which were indictable, beginning with "crimes against peace".¹² The second type of crime recognized was the war crime defined as "violations of the laws or customs of war".¹³ Crimes against humanity, including "murder, extermination, enslavement, deportation and other inhuman acts" constituted the third type of international crime.¹⁴

The Charter and the subsequent judgment of the Nuremberg Tribunal clearly recognized the principle that persons committing crimes against international law are liable to punishment even though no specific penalty for the violation was established prior to the violative act. The theory behind such a principle of law is that no violation of international law should go unpunished. The Nuremberg Tribunal explicitly repudiated the notion that heads of state or governmental officials were immune from responsibility for their roles in violations of international law. The theory of superior orders was also specifically repudiated. Complicity in the commission of the three major types of crimes was also deemed a crime.¹⁵

The evolution of these legal theories was gradual, although the categorical definition of them and their dramatic and decisive implementation was quite sudden in consequence of the Second World War. The concept of crimes against peace was well advocated in the nineteenth century: the International Peace Congress of 1878 resolved that "offensive war is international brigandage" and that "universal morality...should be applied to international relations".¹⁶ The concept of war crimes, solidified by the 1899 and 1907 Hague Conventions,¹⁷ was advanced after World War I with the prosecution of German military personnel in the *Llandovery Castle* case. Even though the prosecutions had negligible consequence the precedent of personal accountability for

¹¹H.B. Jacobini, *International Law* (Homewood, Ill.: Dorsey Press, 1968), 327; and *Manchester Guardian*, October 1, 1946, 6; and "Symposium: War Crimes Trials. The Nürnberg Trials. Eichmann—International Law? The War Crimes Trial—A Second Look," *University of Pittsburgh Law Review* XXIV, (October 1962), 73.

¹²"Crimes against peace were defined in the Charter as "Namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing". "Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis," (1945) 13 *U.S. Department of State Bulletin*, 222; and *Trial of War Criminals* (Washington, D.C.: Department of State, 1945), 16.

¹³Gross abuse and murder of civilians and prisoners of war, plunder and wanton destruction are included. United Nations General Assembly, *Official Records*, 5th Session, Supplement No. 12 (A/1316), 11.

¹⁴*Ibid.*, p. 11; and Edward Collins, Jr., *International Law in a Changing World: Cases, Documents, and Readings* (New York: Random House, 1970), 414; and M.R. Garcia-Mora, "Crimes Against Humanity," *Michigan Law Review*, LXII, No. 6 (April 1964), 927.

¹⁵*Ibid.*, 414.

¹⁶*The Times* (London), September 28, 1878, 5.

¹⁷The Hague Convention of 1907 was inspired by "the desire to diminish the evils of war" and sought to prohibit unnecessary loss of life and property during military operations. Collins, 400-401.

violation of the laws and customs of war was established.¹⁸ In addition, the abortive efforts of the Allies to extradite and try Kaiser Wilhelm II advanced the theory that the head of state was liable for international wrongs. The Treaty of Versailles asserted an exception to customary law, holding both head of state and lesser officials personally to blame.¹⁹ The Kaiser was to be tried for "a supreme offense against international morality and the sanctity of treaties", a charge hitherto not cognizable under international law.²⁰ The Treaty of Versailles, which Germany was forced to sign, recognized the right of the Allies to "bring before military tribunals persons accused of having committed acts in violation of the laws and customs of war".²¹ Even though no trials were ever held by the Allies because the Netherlands refused to extradite the Kaiser and because Germany prevailed upon the Allies to allow German courts to undertake the lesser prosecutions,²² the precedent was established of holding officials responsible for their actions.²³

The Washington Conference on the Limitation of Armaments provided in its Treaty relating to submarines and military gases that persons who violated the provisions, whether giving or receiving violative orders, were to be held personally liable to trial and were to be brought to trial within the jurisdiction where the party was located. The defense of *respondeat superior* was explicitly rejected.²⁴ In accord with the precedents established by the Treaty of Versailles and the Washington Conference, the Tripartite Conference held in Moscow in 1943 declared the intention of the Allies to punish the civilian and military officials of Nazi Germany. Britain, the United States and the Soviet Union proclaimed their intention of prosecuting criminals by returning them to the venue where their crimes had been committed or, in the case of the chief Nazis whose policies and actions had international impact, by trying them under joint Allied authority.²⁵

The London Agreement of August 8, 1945, signed by the Big Four, provided for the creation of the International Military Tribunal for the trial of the defendants whose action had had general impact in Europe.²⁶ The Charter defined the organic rules of the Tribunal, including its jurisdiction and the crimes to be tried; in addition,

¹⁸The *Llandovery Castle* case, tried by the German Supreme Court, involved the killing of enemies violative of Hague Convention *The Annual Digest*, 1923-1924, Case No. 235.

¹⁹Treaty of Versailles, Part VII. Fenwick, 758.

²⁰*Ibid.*, 758-759. Compare the basis of the World War I jurisdictional theory (the Treaty of Versailles) with that of the Nuremberg tribunal. See: F. Regan Nerone, "The Legality of Nuremberg," *Duquesne University Law Review*, IV, No. 1 (1965), 146.

²¹Allied Note, May 7, 1920 in Fenwick, 759.

²²The problems of prosecuting lesser officials included the difficulty of prevailing against the defense arguments that the officials were simply following orders and that the provisions of the treaty were *ex post facto*; in addition, the surrender of German officials by Germany was a substantial problem. Fenwick, 759.

²³*Ibid.*, 759.

²⁴The Washington Treaty is found in M.O. Hudson, ed., *International Legislation* (9 vols.; Washington, D.C.: 1931-1950), II, 794.

²⁵Moscow Declaration on German Atrocities, *U.S. Department of State Bulletin*, IX, 310. The Moscow Declaration, signed by Roosevelt, Churchill, and Stalin, said: "those German officers and men and members of the Nazi Party who have been responsible for...atrocities...will be...judged and punished according to the laws of these liberated countries". As to those German officials whose actions had a wider impact, the Declaration provided that: "the major criminals, whose offenses have no particular geographical localization...will be punished by the joint decision of the Governments of the Allies...". Richard A. Falk, Gabriel Kolko, and Robert Jay Lifton, *Crimes of War* (New York: Vintage Books, 1971), 73-75; and *U.S. Department of State Bulletin*, IX (1943), 310-311.

²⁶*U.S. Department of State Bulletin*, XIII, (1945) 222. In addition to the Big Four, nineteen other states adhered to the agreement although they were not represented on the Tribunal.

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the Charter provided that not only individuals but also organizations could be legally defined as criminal entities.²⁷

The indictment presented at Nuremberg ran to 20,000 words and specified the charges of collective conspiracy; an appendix defined the affect of the collective charges in relationship to each defendant. The officials who received the indictment represented the Big Four--Sir Hartley Shawcross (United Kingdom), Justice Robert Jackson (United States), General Rudenko (Soviet Union), and Francois de Menthon (France). The court sat without jury.²⁸ Signed in early October 1945,²⁹ the indictment was served in the middle of the month; the proceedings continued into 1946.³⁰

The legal theory of the defense was that the charged German officials had not violated any law and that the International Military Tribunal was attempting to effect a prosecution on the basis of *ex post facto* laws. Asserting the theory based on the maxim *nullum crimen sine lege* (no crime without a law providing adequate notice), the defense also relied on the maxim *nulla poena sine lege* (no punishment except as explicitly provided by pre-existing law).³¹ The prosecution, on the other hand, argued that "the maxim *nullum crimen sine lege* is not a limitation of sovereignty, but is in general a principle of justice" which, however, was no bar to prosecution because the defendants knew that their actions were in violation of international law:

To assert that it is unjust to punish those who in defiance of treaties and assurances have attacked neighboring states without warning is obviously untrue for in such circumstances the attacker must know that he is doing wrong...it would be unjust if his wrong were to be allowed to go unpunished ...the defendants...must have known the treaties signed by Germany outlawing recourse to war for the settlement of international disputes; they must have known that they were acting in defiance of all international law....³²

The prosecution contended that the Kellogg-Briand Pact, signed on August 27, 1928, outlawing war, provided sufficient definition and notice of the violative conduct and that the Pact had the standing of international law.³³ The requisite showing of *mens rea* (criminal intent) was presumed. The argument that international law was only applicable to states rather than to individuals was rejected as contrary to practice in the case of criminal acts; and the Tribunal acted on the theory that violations of

²⁷Fenwick, 760.

²⁸*The Times* (London), October 8, 1945, 4.

²⁹*Ibid.*, 4.

³⁰The Judgment was rendered in the fall of 1946. *Ibid.*, October 1, 1946, 4; and *Manchester Guardian*, October 1, 1946, 6.

³¹Fenwick, 761; and *The Times*, October 1, 1946, 4.

³²*Ibid.*, 4.

³³*Ibid.*, 4; and *Manchester Guardian*, October 1, 1946, 6.

international law were, indeed, criminal in character.³⁴ The defense theory that the accused were innocent on the grounds that they were only following superior orders was rejected by the Tribunal on the grounds that the principle of *respondeat superior* was inapplicable to criminal violations of international law.³⁵

Relying upon the principles of municipal criminal law,³⁶ the Tribunal examined the charge of common plan and conspiracy to commit acts of aggression (the indictment had alleged conspiracy in relationship to all charges--crimes against peace, war crimes, and crimes against humanity) and held that in order to prove conspiracy the alleged conspiracy must be in proximity to the "time of decision and action" and that it must be in connection with a "concrete plan" to wage war. (The Tribunal did not find conspiracy in relationship to the other charges).³⁷

The theory that organizations were by their very nature and actions criminal was something of an innovation and presented the problem of the implication of individual members. The Tribunal heard charges against the Nazi Party, the S.D. and S.S., and the Gestapo, as well as against the S.A. and the General Staff and High Command, finding criminal the first three organizations, but not the last two. As to the liability of the individual membership, the Tribunal held the higher leadership of the Nazi Party liable as individuals, but specified that the prosecution must show individual awareness and action in relationship to the criminal acts of the organizations. Thus the culpability of individuals could only be determined on a case-by-case basis, entailing legal proceedings for thousands of individual defendants.³⁸

The Tribunal found major categories of international crimes, including those related to medical experiments, murder of civilians, killing of hostages, pillage of property, and persecution of various groups, especially the Jews.³⁹ The Tribunal found that the German war with Britain and France was not illegal, but that the German attack and war on the Soviet Union was illegal and the consequence of a "plan of aggression".⁴⁰

As to the main points of the indictment, the Tribunal found sufficient evidence during the course of its 403 sessions to prove the fact of crimes against peace, war crimes, and crimes against humanity as alleged in the indictment.⁴¹ The Tribunal regarded the provisions of the Charter and the terms of the indictment as "binding upon the Tribunal as the law to be applied in the case".⁴² The Tribunal interpreted its Charter as requiring that crimes against humanity had to be committed in conjunction

³⁴*Nazi Conspiracy and Aggression* (Washington, D.C.: United States Government Printing Office, 1947), 52.

³⁵*Ibid.*, 53; and *The Times*, October 1, 1946, 5.

³⁶The Allied jurisdictional theory was based on Allied occupation of Germany and the principle of universal jurisdiction. Nerone, 147. As to the charges see: L.C. Green, *International Law Through the Cases* (Toronto: Carswell Co., Ltd., 1978), 707; and Wolfgang Friedmann, O.J. Lissitzyn, and R.C. Pugh, *Cases and Materials in International Law* (St. Paul: West Publishing, 1969), 238.

³⁷*The Times*, October 1, 1946, 5; and Fenwick, 762.

³⁸See Mary M. Kaufman, "The Individual's Duty Under the Law of Nuremberg," *The National Lawyers Guild Practitioner*, XXVII (Winter 1968), 15-21. The actual members of the condemned organizations were as a matter of principle deemed not guilty if they did not know of the illegal purposes and acts of the illegal organization. Each individual defendant was entitled to a trial on the issue of *scienter* and *mens rea*. *Times*, October 1, 1946, 6.

³⁹Fenwick, 762. *The Times*, October 1, 1946, 5.

⁴⁰*Ibid.*, 6.

⁴¹*Ibid.*, 3, 4-6.

⁴²*Ibid.*, 3.

with crimes against peace or war crimes.⁴³ The sentences were imposed subsequent to the Judgment.⁴⁴

The Nuremberg proceedings set the stage for the 1967 "tribunal of inquiry" organized and directed by Lord Bertrand Russell, the famous mathematician and philosopher, and Jean-Paul Sartre, the existentialist, novelist, dramatist, and philosopher. Held at Stockholm, Sweden and continued later at Roskilde, Denmark, the tribunal began its sessions in the spring of 1967 with the objective of "investigating and proving...American war crimes in Vietnam"⁴⁵ as defined by the major precedents.

The Nuremberg precedent was solidified by the United Nations in 1946 when the General Assembly passed resolutions on the Nuremberg Principles.⁴⁶ Furthermore, the United Nations passed a resolution on the Genocide Convention.⁴⁷ These resolutions unarguably applied to all participant states and since the resolutions were passed unanimously the member states are estopped from denying their validity and applicability as consensual rules of international law.⁴⁸ These resolutions provided the framework for the Russell-Sartre tribunal.

Meeting as a private entity, the tribunal's leadership made clear that the hearings were investigative rather than judicial. At Roskilde Russell said, "We are not judges but witnesses," turning aside the criticism of adversaries that the tribunal was a one-sided and morally arrogant kangaroo court.⁴⁹ The same posture had been taken earlier when the leaders of the Stockholm tribunal had made it very clear that the sessions were not conceived as a trial court in the ordinary sense, but as a device for applying the Nuremberg principles and the subsequently defined prohibition on genocide to American and Allied conduct in the Vietnam war. Lord Russell said at the initial Stockholm session that "crimes, barbarous crimes, are reported daily from Vietnam...our task is to display this truth to the people of the world". Sartre recalled the Nuremberg trial in his opening statement, asserting that: "After the last guilty German was tried, the [Nuremberg] Tribunal simply vanished into thin air and no one ever heard a word spoken of it afterwards." The Vietnam War, however, had raised the great moral and legal issues in a new form, Sartre argued, and "never has a Tribunal like that of Nuremberg been so necessary."⁵⁰

The practical problem confronting those who felt that the United States was violating the Nuremberg and genocide principles was that private parties lacked the power and authority of the sovereign states which had conducted the Nuremberg trial. Sartre admitted this in his Stockholm statement, saying, "We are impotent." Therefore, since the tribunal was private it had, at best, only moral authority; Sartre

⁴³Georg Schwarzenberger, *International Law and Order* (New York: Praeger Publishers, 1971), 46.

⁴⁴*The Times*, October 2, 1946, 2, 4, and 7.

⁴⁵*The Times*, November 21, 1967, 4.

⁴⁶Schwarzenberger, 45-46.

⁴⁷*Ibid.*, 46.

⁴⁸See: Affirmation of the Principles of International Law Recognized by the Charter of the Nuremberg Tribunal, *United Nations Yearbook, 1946-1947* (1947), 254.

⁴⁹*The Times*, November 21, 1967, 4. The Roskilde hearings constituted a second session of the Stockholm tribunal of May 1967 at which Lord Russell had announced "the International War Crimes Tribunal must do for the peoples of Vietnam, Asia, Africa, and Latin America, what no tribunal did while Nazi crimes were committed and plotted." *Ibid.*, May 11, 1967, 4.

⁵⁰*Ibid.*, May 3, 1967, 4.

said that "since the Tribunal had no power to enforce them, no sentences would be passed." The issue, he said, was whether American actions were war crimes under the Nuremberg jurisdiction and who was responsible. (Russell felt that American actions were clearly war crimes.)⁵¹

The Stockholm and Roskilde sessions were overtly animated by the fact that the United Nations General Assembly on December 11, 1946 had adopted a resolution affirming the principles of international law recognized by the Charter and the final verdict and judgment of the Nuremberg Tribunal. The United Nations had recognized that the crimes condemned at Nuremberg were punishable as violations of international law; and Justice Jackson had said of the Nuremberg principles that they had universal application.⁵² The problem, of course, was that of jurisdiction--what agency was to assert jurisdiction over states in violation of the Nuremberg principles? The United States refused to accept the Stockholm and Roskilde tribunals, treating them with contempt.⁵³

After hearing the testimony of a number of witnesses including Pham Van Back (justice of the North Vietnam Supreme Court),⁵⁴ reviewing an eighty-page history of United States intervention in Vietnam prepared by American historian Gabriel Kolko, and entertaining eyewitness and filmed evidence, the Stockholm Tribunal concluded its deliberations as to alleged American violations of international law, bombardment of civilian targets, and utilization of illegal armaments.⁵⁵ The Verdict of the Tribunal⁵⁶ was presented on May 10, 1967, finding crimes against peace in violation of Nuremberg principles, finding that the United States had used illegal weaponry in the form of fragmentation bombs "prohibited by the laws and customs of war", and that the United States had bombed civilian targets. Furthermore, the verdict held that the defendant state was guilty of acts of aggression in violation of international law and violations of the nationality, territory, and integrity of Cambodia. Stockholm did not take up the questions as to the alleged mistreatment of Vietnamese prisoners of war and as to whether acts juridically defined as genocide had been committed.⁵⁷

There were a number of practical problems which precluded the Stockholm tribunal from completing consideration of all allegations and issues: the session was limited to only ten days, hardly enough time to consider all the evidence presented, including twenty crates of documents, witnesses, films, and actual injured parties as well as governmental officials; the government of Sweden was hostile to the tribunal and tried to discourage it; in addition, the United States refused to make any defense,

⁵¹*Ibid.*, 4.

⁵²Samuel Rosenwein, "International War Crimes Tribunal: Stockholm Session," *National Lawyers Guild Practitioner*, XXVII (Winter 1968), 24.

⁵³Secretary of State Dean Rusk ridiculed the tribunal, impugning Lord Russell's intelligence as diminished by advanced age. *Times*, May 5, 1967, 4.

⁵⁴*Ibid.*, 4.

⁵⁵*Ibid.*, May 2, 1967, 4.

⁵⁶In presenting the Verdict Sartre said: "the Tribunal has discussed the question: Has the U.S. government committed acts of aggression in Vietnam according to international law?--the Tribunal has unanimously answered yes." *Manchester Guardian*, May 11, 1967, 9.

⁵⁷*Ibid.*, May 11, 1967, 4; and Rosenwein, 28-29. Sartre said that the Stockholm verdict was based on the Nuremberg statute, the United Nation's Charter, the Kellogg-Briand Pact, and the 1954 Geneva agreement on Vietnam, all of which the United States and its allies violated in the Vietnam war. *Manchester Guardian*, May 11, 1967, 9.

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giving the tribunal a one-sided and seemingly unfair appearance.⁵⁸ Hence the proceeding at Stockholm left an unfinished docket.

The Roskilde session in the autumn of 1967 attempted to conclude the process. At the opening Roskilde press conference the chief organizers stressed that there was no pretense that the session was a court of justice, but only that it was an investigating committee. Furthermore, a telegram was sent inviting the United States to send an official representative to "look after American interests and be able to cross-examine witnesses".⁵⁹ (The United States made no official reply).⁶⁰

As Executive President, Sartre criticized the use of the word "genocide" and suggested a closed session of the Roskilde participants to interpret the meaning of genocide and other accusations.⁶¹ The tribunal set itself the additional tasks of determining whether there was ill-treatment of prisoners and whether certain American weapons being used in Vietnam were in violation of international conventions.⁶² The proceedings lacked the elaborate preparations and clear-cut legal theories which characterized the Nuremberg trials, appearing to be little more than a pseudo-legal improvisation operating on the basis of hazy notions as to genocide proscriptions, the laws and customs of war, and the Nuremberg principles relating to crimes against civilians and crimes against peace.

Lord Russell's activities in the international peace movement attracted a great deal of criticism and controversy. His adversaries portrayed him as gullible in the field of international relations.⁶³ On the other hand, his partisans defended his actions as constructive.⁶⁴ Sartre, who appeared to be a bit more cautious in his approach to such matters as accusations of war crimes and genocide,⁶⁵ had been a mordant critic of United States' policy and conduct in Vietnam.⁶⁶ Both Russell and Sartre were well known critics of American foreign policy on a global scale. David Dellinger, a famous and highly controversial American critic of the Vietnam War, as well as a number of other leftists attended the sessions.⁶⁷

After only two weeks of hearings and deliberations (which were not very well covered by the American and British press) the Roskilde tribunal of inquiry came forward with its findings. The posture of the tribunal seemed to have changed since the opening session from that of mere inquiry into that of a jury which purported to bring forward a "verdict". To no one's surprise the session found the United States guilty of genocide in its warfare in Vietnam. The verdict, which was read by Vladimir

⁵⁸*Times*, May 5, 1967, 4.

⁵⁹*Ibid.*, 4; and Falk, Kolko, and Lifton, 73.

⁶⁰For details on the proceedings and the participants see: *The Times*, November 21, 1967, 4. The position of the U.S. State Department officially was to ignore the Roskilde inquiry and obstruct the travel of Americans to its sessions.

⁶¹*Ibid.*, November 21, 1967, 4.

⁶²Jean-Pierre Vigier, a French armaments expert, testified, for example, that the fragmentation bombs used by the United States in Vietnam were for the sole purpose of injuring and killing people. *Ibid.*, 4. For details as to Professor Vigier's testimony see Rosenwein, 27.

⁶³*New York Times*, February 19, 1967, VI, 24.

⁶⁴*Ibid.*, March 12, 1967, VI, 12; and *ibid.*, April 16, 1967, VII, 141.

⁶⁵*The Times*, November 21, 1967, 4.

⁶⁶Sartre's criticism of American actions in Vietnam had been voiced well prior to the two tribunals. *New York Times*, April 23, 1967, 2.

⁶⁷*The Times*, December 2, 1967, 5.

Dedijer, a Yugoslav lawyer, found the United States guilty also of unlawful use of weapons, ill treatment and killing of prisoners, removal by force of civilians, and aggression against Laos and Cambodia.⁶⁸ Sartre commented that: "Americans are killing Vietnamese solely because they are Vietnamese in the same way as the Nazis killed the Jews only because they were Jews". In a separate verdict of his own Russell stated: "We do more than accuse the U.S. of criminal acts. We fulfill a deeper duty. Quiet and silence is the crime; we want to condemn evil and awaken conscience." He described the proof of American wrong-doing in Vietnam as "a nightmare we will never forget".⁶⁹

The Jury of the Tribunal also found Japan, Thailand, and the Philippines to be accomplices of the United States.⁷⁰ Dellinger, a member of the Jury, remarked: "The American people must understand the Vietnamese fight of necessity. They have no choice, they had to resist." As to the charge of genocide, he observed: "A democratic nation can also commit genocide. Just remember what happened to the red Indians in our country." Ultimately, he concluded, "the American people must act to stop the war". The Tribunal, in his opinion, was only a way of alerting the public.⁷¹

The Nuremberg Tribunal and the Stockholm-Roskilde sessions were different, but they shared certain common characteristics. The Nuremberg Tribunal was conceived and implemented by the four most powerful nations of the world as they emerged victorious over the Axis powers; the Roskilde sessions were conceived and conducted by private individuals who lacked the political authority to inflict punishment and who, indeed, claimed, at best, only moral jurisdiction over the accused. The Big Four and the nineteen associated nations on the Allied side brought the defeated Nazi leadership to the bar under the pretext of imposing upon them the principles of international law which they had allegedly violated; the private tribunal also accused the leadership of the United States of violations of international law, utilizing most of the same principles regarding crimes against peace, war crimes, and crimes against humanity as the International Military Tribunal, but adding the genocide principle.

How much the Nuremberg trials were punitive actions clothed with the garments of law and due process and how much they were designed to set a precedent at international law is arguable. Certainly, the trials were one-sided in that the legal theories applied to the Germans were not applied to similar actions of the Allies during World War II.⁷²

The Allies of the First World War had advocated the novel idea of trying and punishing the civilian and military officials of the Central Powers after the war; but

⁶⁸*The Times*, December 2, 1967, 5.

⁶⁹*Ibid.*, 5.

⁷⁰*Ibid.*, 5. The Stockholm verdict had already convicted the United States, Australia, New Zealand, and South Korea for war crimes in Vietnam. *Manchester Guardian*, May 11, 1967, 9.

⁷¹*Times*, December 2, 1967, 5.

⁷²The Soviet Union was an accomplice of Germany in the 1939 invasion of Poland; Russia subsequently attacked Finland; and it is cogently arguable that the Allies perpetrated their share of war crimes and crimes against humanity even though no formal indictments were ever drawn. Gordon Wright, *The Ordeal of Total War, 1939-1945* (New York: Harper, 1968), 17-22; and Otto Kransbühler, "Nuremberg Eighteen Years Afterwards," *DePaul Law Review*, XIV (Spring-Summer, 1965), 333; and Otto Pannenbecker, "Nuremberg War Crimes Trial," *DePaul Law Review*, XIV (Spring-Summer, 1965), 348.

the implementation of the idea had been only nominally effected. At the end of World War II, a conflict in which the aggressions, atrocities, and destruction perpetrated by the Axis states had been much more heinous, the Allies implemented the idea of punishing those individuals and organizations of the defeated states which were implicated in the violation of international law. However, the Nuremberg trials failed to advance fully the legal theory that individuals, organizations, and states should be held to account for the types of crimes listed in the indictment: the Allies only applied the legal theory to the Axis and not to themselves; and no provision was made for establishing a permanent legal mechanism or international tribunal with compulsory jurisdiction over any and all alleged violators of international law.⁷³

The Russell-Sartre tribunal of inquiry at Stockholm and Roskilde was a symptom of the fact that the legal theory set forward at Nuremberg and the actions of the Tribunal itself had sufficient precedential value at law and such substantial moral cogency that intellectuals and activists felt compelled to try to employ the concept by private and informal means in the absence of satisfactory formal legal mechanisms. The private tribunal recognized that the legal theory and moral principles formulated and utilized against the Axis at Nuremberg had become orphans upon the demise of the International Military Tribunal: the Big Four had fathered progeny during the Second World War but then abandoned them; the Stockholm-Roskilde inquiry tried to confront the United States with its twenty-one-year-old war baby.

As Russell said of the Roskilde participants, "We are not judges, but witnesses," so it can be said of all private parties trying to recall sovereign nation-states to the legal theories of Nuremberg and of genocide. The great nations create, develop, and apply such theories and principles at their convenience and in their own interest; the International Court of Justice and the United Nations are of little use if the culpable party is the United States. Hence, ultimately, the private tribunal was a device to give publicity to the notion that the Nuremberg theory was valid and relevant to American warfare in Vietnam. As David Dellinger observed, in the absence of an effective formal international legal mechanism the enforcement of the Nuremberg principles and of genocide will seldom come from external formal entities, but will rather come by raising the consciousness of the populace of the wrong-doing nation-states with resultant domestic pressures upon guilty governments to cease their violations.⁷⁴

⁷³The magnitude of Allied violations was great even though gross violations usually went unpunished. The destruction of civilian life and property, the number of rapes, the bombing of hospitals and hospital ships, and the killing of shipwrecked military personnel was recently documented by the West German Television Network. *The State* (Columbia, S.C.), May 15, 1983, 16-A.

⁷⁴*The Times*, December 2, 1967, 5. Russell Stetler, the Deputy Secretary of the Tribunal, remarked during the Stockholm hearings that the publicity would aid fund raising so that the tribunal could expand its operations and staff and establish its projected headquarters in Paris. *Ibid.*, May 9, 1967, 6.

A Mistress and a Slave: Anna Maria Thornton and John Arthur Bowen

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It has been a truism for some time that diaries are an important source for women's history, and historians have recently begun to turn more and more to the journals and letters of antebellum southern women in an effort to understand how they felt about the slaves in their family's possession. Did their views reflect those of their menfolk? Or did they feel differently about slavery? Did they even perhaps identify with the oppressed race? Two historians who have recently written on this topic, Catherine Clinton and Elizabeth Fox-Genovese, examined the lives and records of "plantation mistresses," those women whose households contained twenty or more slaves. While Clinton concluded that slavery was a system that oppressed the white women as well as blacks, Fox-Genovese determined that white women profited from and perpetuated the institution.¹ But what about those women in the majority of slaveholding homes with fewer than twenty slave?

The diary of Anna Maria Brodeau Thornton, now deposited at the Library of Congress, covers her life in the District of Columbia from 1794 to 1865 with only a few gaps. She and her husband owned between five and eleven slaves, well below the plantation level, but closer to the average. Most intriguingly, however, one particular event she recorded in her journal allows us to contrast her views on slavery with those of some of the other citizens of the District. In August 1835, after one of her slaves tried to murder her in her bed with an axe, Anna Maria's relationship with her slaves became a matter of national interest, sparking riots and leading to the arrest and trial of an abolitionist in Washington, and motivating, in part, the 1836 passage of the "gag rule" in Congress and the formulation of a strict Black Code in Georgetown. But these public reactions were very different from Anna Maria's own, which gives us a clue as to how some southern women may have felt in the years 1831 to 1836 as a wave of anti-abolitionist hysteria swept the nation.

Anna Maria had been married for thirty-eight years to William Thornton, the first architect of the United States Capitol and the first superintendent of the United States

¹Catherine Clinton, *The Plantation Mistress: Woman's World in the Old South* (New York, 1982), and Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South* (Chapel Hill, NC, 1988).

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Patent Office. They had moved to Georgetown in 1794 after Thornton won the design competition for the new capitol building and then to the District of Columbia in 1796, to a house on F Street, where she remained until 1845.

Her husband's feelings about slavery had always been ambiguous. As a Quaker and a founding member of the American Colonization Society he had been opposed to slavery for all of his adult life.² Yet as a member of a West Indian plantation family he had always been a slaveholder and was never able to free any of his slaves; upon occasion, he actually purchased more.³ When he died in 1828 he did request in his will that his slaves in Washington and Maryland be educated and then freed after the death of his wife and her mother, Mrs. Brodeau, and given the choice of a free plot of land or passage to Liberia. But he also wrote in a provision that if "any of them [the slaves] behaved so improperly as to require it," Anna Maria or Mrs. Brodeau could sell them.⁴

A schedule of Thornton's estate shows that he owned "eleven valuable Negroes" at the time of his death: five men, three women, one girl, and two boys. While far less than the number of hands needed to run a plantation, they were estimated as being worth \$2650.00, a not insignificant part of the impoverished Thornton estate.⁵ The Thorntons did not need all these slaves for their household or their farm and hired them out to those who needed servants as a source of extra income. Facing mounting debt after her husband's death, Anna Maria relied on this option more and more, to the extent that she sold one woman slave and her child in 1829 because she was an alcoholic and no one would hire her.⁶

Anna Maria never appeared to give much thought to the institution of slavery. Before 1835 her slaves were shadowy figures who never took the stage in her diary for any length of time, and she never commented directly on the "peculiar institution." She never expressed any overt fear of blacks, but she did return early from a day trip to Virginia soon after Nat Turner's rebellion, "tho' not afraid of anything in reality--still alarm is excited involuntarily by so much being said about the insurrection of the negroes."⁷ It seems most likely that she accepted slavery as a necessary evil and her husband's involvement in the American Colonization Society as a manifestation of his sometimes impractical nature.

But one of her slaves became a constant part of her thoughts after the early morning hours of August 5, 1835. In Anna Maria's own words, "a dreadful night! was last night--never to be forgotten. Arthur entered our room at 1/2 after one o'clock with an axe--with the intention we suppose to murder us--His mother (Maria) sleeping in the room with us, & being fortunately awake, seized him and got him out, while I ran next door to alarm Dr. Huntt & get help--Oh what a horrid night."⁸ Anna Maria may not

¹For details of Thornton's life, see Elinor Stearns and David N. Yerkes, *William Thornton: A Renaissance Man in the Federal City* (Washington, D.C., 1976).

²Anna Maria's journal for the year 1800 discusses the difficulty Thornton is having in buying a healthy, adult male slave. Anna Maria Thornton Diary, 12, 15, 21, and 27 May; 27 October; 22 November; and 12 and 13 December 1800, Library of Congress, Washington, D.C. Hereafter referred to as AMT Diary.

³Will of William Thornton, probated on 7 April 1828, Register of Wills, Superior Court, District of Columbia.

⁴"General Statement of William Thornton's property and Debts," [April 1828], ff. 1106-1107, William Thornton Papers, Library of Congress, Washington, D.C.

⁵AMT Diary, 20 March 1829.

⁶AMT Diary, 5 August 1835.

⁷AMT Diary, 5 August 1835.

have been too surprised by the attack; nineteen-year old Arthur, christened John Arthur Bowen, had been a disciplinary problem since Dr. Thornton's death. During the years he had left the Thornton property without permission to go to the public billiards room or the races. He ran away when threatened with punishment, and found a number of ways to evade being hired out to uncongenial employers. The situation grew more acute through 1835, as Anna Maria could find him no employment after April and she reported that he was frequently unwell and perennially unemployed.⁹

The public reaction to Arthur's attack was immediate and violent. Tension had been building all summer as the mail was flooded with abolitionist literature, and the newspaper reports that Arthur had entered Mrs. Thornton's bedroom "venting the most ferocious threats, and uttering a tissue of jargons much of which was a literal repetition of language addressed to the Negroes by....the incendiary publications with which this city and the whole slaveholding portion of the country have been lately inundated" further inflamed the tempers of the unemployed Navy-yard mechanics and adolescent boys who began wandering the streets of the capital the next night.¹⁰

On August 8 Anna Maria had to send Arthur to jail for his own safety because the growing mob was threatening to come to her house to lynch him. Earlier in the day she had hoped to sell him to a man from outside the District, but the purchaser had refused to buy, judging Arthur to be too great a risk. She found another purchaser the same day, but when she sent for Arthur at the jail she discovered that the marshals had charged him with attempted murder and burglary and refused to release him. Anna Maria herself never pressed charges; she accepted Arthur's explanation that he had been drunk and tried to shield him from the consequences of his act.¹¹

In a related case, Henry King of Georgetown, a citizen alarmed by the murder attempt and the mob's activities, told police that he had seen some of the abolitionist literature allegedly read by Arthur at the office of a mild-mannered northern doctor, Reuben Crandall, and that the pamphlets were marked "read and circulate." Crandall was arrested on August 10 on the charge of possessing and circulating inflammatory literature.¹² Both Arthur's and Crandall's cases would be prosecuted by Frances Scott Key, now past his songwriting days and acting as the United States Attorney for the District of Columbia. Key pushed for the prosecution of both cases in spite of Mrs. Thornton's reluctance in one and the weakness of the other for a simple reason: as a founding member of the American Colonization Society and a committed colonizationist, he disliked, distrusted, and resented the new generation of radical, Garrisonian abolitionists who had taken over the state of reform and stolen his audience. He also believed that the efforts of these men only inspired fear in southern whites and hindered the gradual emancipation of slaves.¹³ He believed that both cases were linked to the

⁹AMT Diary, 12 and 13 January; 26 April; 15, 22, and 28 May; 3 and 11 June; 1 and 6 July 1835.

¹⁰*National Intelligencer*, 7 August 1835; Joseph Seaton, *William Winston Seaton of the "National Intelligencer": A Biographical Sketch* (Boston, 1871), 217-218; and William D. Hoyt, Jr., "Washington's Living History: The Post Office Fire and Other Matters, 1834-1836," *Records of the Columbia Historical Society* 46-47: 61-65.

¹¹AMT Diary, 8 August 1835.

¹²Neil S. Kramer, "The Trial of Reuben Crandall," *Records of the Columbia Historical Society* 50 (1980): 123-139.

¹³Early Lee Fox, *The American Colonization Society, 1817-1849*, Johns Hopkins University Studies in Historical and Political Science, ser. 37, no. 3 (reprint, New York, 1971), 160.

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radical abolitionists and their literature, and he wanted to make examples of them both.

Meanwhile, the mob roamed the streets of Washington through the next few nights. On the twelfth, a crowd gathered at the jail to try to lynch Crandall. The next day the mayor called in a small force of United States troops, supplied the clerks in public buildings with arms, and stationed marines at the jail. Militia general Walter Jones, the attorney would represent Arthur at his trial, called citizens to arms. The conflict came to a head on the fourteenth when the mob threatened to march on the well-guarded city hall. But at the last moment it chose instead to go to Capitol Hill to burn buildings occupied by the free blacks. That was the last night of riots, and at the end they had destroyed a free black school, black tenements, and a black brothel, and smashed and ruined the interior of a fashionable restaurant run by a mulatto named Show.¹⁴ But even after the riots were over, public feeling against blacks and abolitionists continued to run high.

In spite of this rising tide of emotion, Anna Maria worked desperately to free Arthur from jail throughout August and September, pleading with marshals, judges, and attorneys.¹⁵ But there was no swaying the court or the United States Attorney, and his trial was scheduled for December 10, 1835. While Frances Scott Key would lose the Crandall case, he easily won *United States v. negro John Arthur Bowen*.¹⁶ The trial lasted only one day, December 10, and the jury promptly found Arthur guilty of attempted murder and burglary, in spite of the defense's weak argument that merely entering a room with a weapon was not a sufficient definition of attempted murder and that burglary was impossible because Arthur lived on the premises.¹⁷ Walter Jones immediately moved for a new trial, but on January 23, 1836 Judge William Cranch overruled the motion and sentenced Arthur to execution by hanging on February 26, 1836.¹⁸

Friends advised Anna Maria that her only hope of saving Arthur was a presidential pardon.¹⁹ As February passed by and chances looked increasingly bright for at least a stay of execution, if not a pardon, Anna Maria confessed, "Oh how thankful I shall be if this poor boy is *pardoned!*"²⁰ On February 19 she met with President Jackson, who told her that her initial appeal for mercy was not enough; she needed to get recommendations for mercy from the judge and district attorney and a petition with a great number of signatures.²¹ She found that she could not get the recommendations and had to rely on an enlarged petition as enough evidence to sway the president. Her anxiety ran high as she awaited final word and tension mounted in the household; Arthur's mother Maria ran

¹⁴Wilhelmus Bogart Bryan, *A History of the National Capital* (New York, 1916), vol. 2: 133-146; Constance McLaughlin Green, *Washington: A History of the Capital, 1800-1950* (Princeton, NJ, 1976), 140-146.

¹⁵AMT Diary, entries for late August and September.

¹⁶National Archives, RG 21, Records of the United States Circuit Court of the District of Columbia, Criminal Appearances Docket, no. 102.

¹⁷National Archives, RG 21, Records of the United States Circuit Court of the District of Columbia, Minutes, 1801-1863; William Cranch, *Reports of Cases Civil and Criminal in the Circuit Court of the District of Columbia, from 1811 to 1841* (Boston, 1852), vol. 4: 604-606.

¹⁸National Archives, RG 21, Records of the United States Circuit Court of the District of Columbia, Criminal Appearances Docket, no. 102.

¹⁹AMT Diary, 28 January 1836.

²⁰AMT Diary, 15 February 1836.

²¹AMT Diary, 19 February 1836.

away for one night and returned the next morning, sick with misery.²² On the twenty-fifth, Jackson granted Arthur a stay of execution until June 3.²³ Though relieved, Anna Maria was also angry that Arthur had been prepared for hanging before he was told of the respite and reflected, "[h]ow circumstances change one's feelings! When Arthur misbehaved I was very much distressed at having to sell him away--now I should be happy to be allowed to do so."²⁴

On February 27 Arthur wrote a letter to Anna Maria Thornton.²⁵ Still in the William Thornton Papers and written in a clear and vigorous hand, it displays the mixed feelings of gratitude and resentment that Arthur felt for his mistress. He apologized for his behavior on August 5, explaining again that he "was perfectly insane, occasioned by *semi-intoxication*" and mentioned and denied the "certain utterly false reports" that implied he was acting under the influence of abolitionist literature. But after he thanked Anna Maria, his "generous, noble-hearted benefactress, and mistress," for interceding with the president, Arthur did whine that although he was in good health "the Irons have some what *lacerated* my legs," and asked her to continue working for his "final Emancipation," which he clearly believed he deserved.²⁶ He did not feel any incapacitating remorse; instead he blamed his actions on whiskey and refused to accept any culpability. His feelings toward Anna Maria are quite ambivalent and this interpretation is borne out by Anna Maria's terse diary entry for May 4, which related that Maria had brought her another letter from Arthur which had a tone she did not like.²⁷ This epistle was not saved.

The long, tedious cycle of reapplying for a pardon began again as soon as the president granted a respite. Mrs. Brodeau, Anna Maria's mother, was failing fast at the same time, and Anna Maria found herself caring for her mother around the clock while working for Arthur's release. On June 3 Jackson granted Arthur a further respite until August, and on June 27 he finally gave Arthur a full pardon, effective July 4, when he would be released from prison.²⁸ Ironically, Mrs. Brodeau passed away on the morning of the fourth, when the pardon was made public, and Anna Maria had to arrange a funeral, settle an estate, and make arrangements for Arthur's sale out of the District.²⁹ Anna Maria kept her composure somehow, and on July 8 she reported that she had sold Arthur for \$750.00 (\$250.00 less than she would have realized had he not been a criminal) to John Eaton, Jackson's former Secretary of War and now territorial governor of Florida. Arthur would accompany a Mr. Stockton, perhaps Robert Field Stockton, later Secretary of the Navy, to Florida, where he would serve as his personal servant and perhaps become a steward on a steamboat.³⁰

Here Arthur's story ends. Anna Maria only mentioned him once more when she

²²AMT Diary, 22 February 1836.

²³National Archives, RG 59, Miscellaneous Records, Presidential Pardons and Remissions, 25 February 1836.

²⁴AMT Diary, 26 and 27 February 1836.

²⁵AMT Diary, 3 March 1836.

²⁶John Arthur Bowen to Anna Maria Thornton, 27 February 1836, William Thornton Papers, Library of Congress, Washington, D.C.

²⁷AMT Diary, 3 March 1836.

²⁸National Archives, RG 59, Miscellaneous Records, Presidential Pardons and Remissions, 3 and 27 June 1836.

²⁹AMT Diary, 6 and 7 July 1836.

³⁰AMT Diary, 8 July 1836.

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acknowledged receiving a letter from Mr. Stockton about Arthur on August 20, 1836.³¹ The letter is presumably lost, and Arthur's ultimate fate is unknown. His mother, however, remained Anna Maria's slave and, later, servant for the rest of her life.

What happened to Anna Maria Thornton on August 5, 1835 was the kind of nightmare scenario that some southerners used to rouse the populace against abolitionists and blacks, as we saw in Washington. But Anna Maria did not respond with hatred, fear, or vengeance as we might expect; instead her concern for Arthur was enormous and the effect of his imprisonment and sentencing was far greater on her than his actual attack. As her closest friend, Margaret Bayard Smith, observed, Anna Maria looked "as wretchedly as if she had had a severe attack of disease" after Arthur was imprisoned and charged.³² She wrote sympathetically to Anna Maria on Christmas Day to invite her to join the Smith family for the evening rather than sit at home and brood about Arthur.³³ But Anna Maria refused to be consoled until Arthur's pardon. There is no doubt from her writings during this time that although she may not have discussed often the activities or personalities of her slaves, she cared deeply about their welfare and felt directly responsible for it. Her attitude was parental and she cared for each as an individual, but there was no doubt of their ultimate status as her property as reflected in her 1837 comment that one of her slaves, George Plant, was getting unmanageable without a master.³⁴ Her attitude, typical in some ways of the tradition of paternalism, must surely be similar to that of some of the southern women whose households had fewer than twenty slaves. Presumably these women could get to know their bondsmen in a way that would have been more difficult in a larger household. This is not to say that slavery was a humane institution if practiced on a smaller scale or that paternalism was the norm; rather, that perhaps the most important historical lesson that Anna Maria's experience can teach us is the danger of generalizing about the relationships between white women and their slaves; such relationships varied according to individual cases. As we have long known, slavery was a complex institution whose ramifications cannot always be easily explained, and Anna Maria Thornton and John Arthur Bowen were perfect examples of this.

Anna Maria's years as a slaveholder were soon over. In 1844 George Plant died and Anna Maria freed her remaining slaves, Maria and Nelly, in November when she relinquished control of her household to her half-niece, Adelaide Talbot.³⁵ She spoke of her relief from "the trouble of providing," but her accounts for the rest of her life reveal that she employed Maria and Nelly for a variety of household tasks. Even when ownership ended, responsibility remained, and Anna Maria continued to provide for the people she once had owned.

³¹AMT Diary, 20 August 1836.

D.C. ³²Margaret Bayard Smith to Ann Maria Thornton, 25 December 1835, William Thornton Papers, Library of Congress, Washington,

³³Margaret Bayard Smith to Anna Maria Thornton, 25 December 1835, William Thornton Papers, Library of Congress, Washington,

D.C. ³⁴AMT Diary, 27 February 1837.

³⁵AMT Diary, 27 February and 19 November 1844.

A Most Awful and Insoluble Mystery: The Writing Career of Sarah Morgan Dawson

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Pondering her Civil War diary and reflecting on the half century since her birth, Sarah Morgan Dawson concluded in 1896 that life had been "a most awful and insoluble mystery."¹ The mystery began in 1842 in Louisiana and ended in 1909 in France. Perhaps the mystery originated out of the discomfort Sarah Morgan Dawson felt in the role assigned to her by rigid conventions now described as the "myth of the Southern lady." Or perhaps its source was the tragic assassination of her husband. Sarah Morgan Dawson matured during the most exciting, turbulent, and perplexing time in American history. Perhaps that was the mystery.

The "myth of the Southern lady," as delineated by Anne F. Scott, demanded submission, obedience, innocence, tact, sympathy, and compassion. According to the myth, women were intellectual inferiors from whom southern men drew their imagined strength.² A well-bred southern gentlewoman of the merchant class, Sarah Morgan Dawson usually discharged the duties expected of her. Yet in the privacy of her diary and publicly in newspaper articles, Dawson revealed a resentment of the customs which repressed her and a disdain for the society that bolstered them. Her contributions to the *Charleston News* and *News and Courier* in the 1870s reflected the economic exigency that had bruised the myth and altered some of the fundamental assumptions about women and their role in society.³

Slender and small of stature, with soft, white skin, beautiful violet eyes, and long blond hair, Sarah Morgan Dawson conformed to the myth's prescription for beauty, grace, and physical weakness.⁴ Though she had only ten months of formal education, she was well-schooled in the social graces. She studied in Europe, and taught herself literature, French, history, and writing. In addition she could sing and

¹Mss. Diary of Sarah Morgan, additions to Vol. 5, July 23-26, 1896, F. W. Dawson Papers, Perkins Library, Duke University.

²Anne Firor Scott, *The Southern Lady, From Pedestal to Politics, 1830-1930* (Chicago: University of Chicago Press, 1970), 4, 18; Anne Goodwyn Jones, *Tomorrow Is Another Day, The Woman Writer in the South, 1859-1936* (Baton Rouge: Louisiana State University Press, 1981), 10.

³Scott, *Southern Lady*, 81-106.

⁴Ernest Culppepper Clark, *Francis Warrington Dawson and the Politics of Restoration: South Carolina, 1874-1889* (University of Alabama Press, 1980), 24; Scott, *Southern Lady*, 4; Warrington Dawson to S. Frank Logan, July 1, 1946, quoted in S. Frank Logan, "Francis W. Dawson, 1840-1889: South Carolina Editor" (Unpublished M.A. thesis, Duke University, 1947), 1.

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play the guitar.⁵ She was the personification of the "southern belle."

Bewildered by the inferior position to which women were relegated, the 20-year-old Sarah Morgan in war-torn Baton Rouge wondered why she had been denied the education that would "enable me to be the equal of...a man." After reflection about this matter, she chastised herself in her diary:

Have I exerted fully the natural desire to know....
Have I done myself injustice in my self-taught
ignorance, or has injustice been done to me?....
Have I labored to improve the few opportunities
thrown in my path, to the best of my ability....
'What do you know?' Nothing! except that I am
a fool!⁶

Later, she was furious at the "insipid" topics considered suitable conversation for young women. She wished that "men of the greatest refinement and education would graciously condescend to pour some of their light on my darkened mind....But I shall be forced to quench my thirst for knowledge at some of the meaner streams, or die of starved ambition."⁷

Comprehending woman's role in society, Sarah Morgan complained that the war had inspired "malignant feelings that I did not believe could dwell in woman's heart." She wrote about women's wartime "holy mission"--compassion and charity. She described "woman's trash"--sewing, reading, other domestic tasks--as well as "woman's duty"--to "stand by some forsaken man and bid him Godspeed as he closes his dying eyes."⁸ Once Louisiana seceded, Morgan supported the Confederacy and wished she "could fight in the ranks with our brave soldiers, to prove my enthusiasm....But if I can't fight, being unfortunately a woman, which I now regret for the first time in my life,...I can help in other ways."⁹ For her, as for all women, patience was a virtue. "Sometimes I think of the trials that so eat all life from my heart,...and mourn that I did not endure more patiently...."¹⁰ Despite her enthusiasm for the war and her enmity toward Yankee soldiers stationed in Louisiana, at the war's end Morgan wrote: "Let the historian extol blood shedding; it is woman's place to abhor it."¹¹ The most stable member in an all-female household, it fell to Morgan to console the others when two brothers died and the Confederacy fell. "I must bear all the misery for Mother and

⁵Edmund S. Wilson, *Patriotic Gore, Studies in the Literature of the American Civil War* (New York: Oxford University Press, 1962), 267.

⁶Sarah Morgan Dawson, *A Confederate Girl's Diary*, Warrington Dawson, ed. (Boston and New York: Houghton Mifflin Co., 1913), 249-250. Unless otherwise noted, references to the diary are to the 1913 edition.

⁷*Ms. Diary of Sarah Morgan*, vol. 6, August 27, 1865, F. W. Dawson Papers, Perkins Library, Duke University. The last entry in this volume is June 3, 1873. However, until this date entries are sporadic and infrequent. This volume of the journal was not in either of the published editions. Only entries such as this one, referring to a trip to South Carolina for a wedding, remain. Notes on the flyleaf indicate that an entire section covering the years 1871-1873, "the most awful years of my life," were destroyed.

⁸Dawson, *Diary*, 79-81.

⁹Sarah Morgan Dawson, *Confederate Girl's Diary*, James I. Robertson, ed. (2nd edition; Bloomington: Indiana University Press, 1960), 103.

¹⁰*Ms. Diary of Sarah Morgan*, vol. 6, September 10, 1865, F. W. Dawson Papers, Perkins Library, Duke University.

¹¹Dawson, *Diary*, 437.

Miriam [her sister] who lie unconscious before me."¹²

Before the war, the Morgan home was the site of gatherings of young people and even during the war Confederate and Union soldiers alike were welcomed. However, Morgan had not yet met

the man I would be willing to acknowledge as my Lord and master....I have dressed up an image in my heart and have unconsciously worshipped it.... My lord and master must be someone...after God I shall most venerate and respect....He must be as brave as a man can be.¹³

To join a widowed brother in 1872, Morgan and her mother moved to South Carolina.¹⁴ There Sarah Morgan met the gallant Francis Warrington Dawson, an Englishman whose romantic view of the Confederate cause had brought him to America.¹⁵ Though Morgan was strongly attracted to the handsome newspaperman, she was uncertain about marriage. Unlike many of her contemporaries she refused to believe that marriage was the sole end for which women were created. Too many, she thought, were "ready to sacrifice self-respect and peace of mind to secure a marriage whose happiness is to wane with the moon."¹⁶ She was torn between her own contradictory beliefs that marriage did not mean total male domination and that "reasonable submission" (which she never defined) was the wife's "duty." The concessions of a wife, she thought, were those which "do not involve conscience," those which would always be "made by the one who has most self-respect."¹⁷ Soon, however, the dashing veteran won his way into her heart, and they married on January 27, 1874.¹⁸

Meeting Frank Dawson opened new avenues of intellectual fulfillment for Sarah Morgan. As was the case with other southern women, economic necessity led Morgan to the newspaper field.¹⁹ During a conversation with Dawson she compared Reconstruction in Louisiana to the fate of Andromeda, imprisoned on the rocks at the mercy of a sea monster as punishment for incurring the wrath of Poseidon. Dawson was so struck with the analogy that he asked her to write it for the *Charleston News*, the daily which he edited. Believing that ventures into journalism were unacceptable for "nice" ladies, Morgan refused, but Dawson pleaded until she reluctantly agreed--on her own terms.

I shall write that for you exactly as I spoke it,

¹²Miss. Diary of Sarah Morgan, note added to vol. 5, July 25, 1896, F. W. Dawson Papers, Perkins Library, Duke University.

¹³Quoted in Scott, *Southern Lady*, 23.

¹⁴Mary Katherine Davis, "Sarah Morgan Dawson: A Renunciation of Southern Society," (Unpublished M.A. thesis, University of North Carolina, 1970), 31.

¹⁵Clark, *Dawson*, 14.

¹⁶Scott, *Southern Lady*, 23.

¹⁷"Young Couples," *Charleston News*, March 29, 1873.

¹⁸Davis, "Sarah Dawson," 51.

¹⁹Scott, *Southern Lady*, 119.

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but I refuse to take the trouble to re-read it because I don't consider it worth it. As I finish each page, I shall throw it away--on the floor. If you choose to go down on your knees to pick up the pages, that's your own affair--only since nobody is to know I have written it, on getting back to your office, you shall recopy the whole in your handwriting and destroy my original so that it shall be thought you wrote it yourself.

Promptly, Frank bent down and gathered the pages, and on March 5, 1874 the article appeared on the editorial page of the *Charleston News*.²⁰

Called the "New Andromeda," the article was written with a flair and a passion that came from innate ability rather than from training.

Hundreds of thousands of men, women and children silently enduring the suffering entailed upon them by the strife of politics....Even the remedies of law, the universal refuge of oppressed souls, are in abeyance....The planter is unable to carry on his operations. The merchant...finds his business seek other channels. The grand railroad enterprises ...are at a standstill. The hearts of many fail them for fear....

In this condition stands Louisiana; a new Andromeda chained to the rock; her only garments tribulation and anguish; bound motionless by giant Selfishness....There she lies in her death swoon.

For the deliverance of Andromeda the gods sent Perseus. In all Olympus, where our fumaceous Jove reclines among his thunderbolts, can no Perseus be found, wise, and bright, and pure enough to rescue a perishing sister?²¹

The editor had carried out her orders to the letter, furtively inserting the article in the copy himself. Extremely favorable responses helped persuade Morgan to continue writing. Yet she adamantly refused to have her name on the articles. The pair agreed that subsequent pieces would be signed "Mr Fowler" and that her paycheck would be made out in that name.²²

Less than a week later "Mr. Fowler's" second article appeared, the first in a

²⁰Logan, "Francis Dawson," 100-101. The account of Sarah's self-imposed conditions were related to Logan by Warrington Dawson.

²¹"The New Andromeda," *Charleston News*, March 5, 1873.

²²F. W. Dawson to Sarah Morgan, March 5, 1873, F. W. Dawson Papers, Perkins Library, Duke University; Logan, "Francis Dawson," 101. Sarah Morgan's articles do not appear under a by-line.

series of articles about society's outcasts: singles. The "Use and Abuse of Widows" attacked the social customs which relegated widows to a useless position, "instruments...[to] manufacture crape [*sic*] and bombazine," and accused them of being "a scourge for their sex." Then Morgan compared widows to unmarried women.

The unbiased mind may well be struck by the withering epithet 'old maid,' which blasts a hardly matured woman at twenty-five, while the widow, that adder of men among women, is attractive, surrounded, irresistible at thirty, forty, fifty--yea, when past...the age, when the unmarried woman begins to read neglect and contempt in the manners of those around her...[T]he most obvious deduction is the widows know that it is not good to live alone, and with a dexterity born of long experience, practice what they preach. Cold impartiality asks why should not girls have an equal chance in the matrimonial race? Let the unmarried see to it, and make the Uses and Abuses of Widows the grand Woman's Rights and Social Equality questions of the day.²³

The article "excited great talk in Charleston." The city's widows declared that the same could be said of bachelors and widowers, while "the men think it rare fun and like Oliver call for more."²⁴ The success of the second article convinced the *News* editors that within three months Sarah would be able to support herself through her newspaper work. Sarah Morgan thus became a regular on the staff of the *Charleston News*, contributing, if possible, three articles each week -- one for Saturday (a "social" article) and two on "general subjects."²⁵

Editorials by Sarah Morgan often suggested a rejection of social convention. The third article, entitled "Old Maids," contained a note of bitterness, probably resulting from her feelings at this stage of her own life. Society, she doubted, would never "advance so far that the name of Old Maid will cease to bring a smile of contempt." Married women were a wrangling and impatient group, excused from their misdeeds because of the state of matrimony. Yet, as she pointed out, it was "old Maids...who go about, bringing God's sunshine into darkened places, raising the fallen, loosing the prisoner's bonds, and preaching hope and Charity to men." How strange that a selfless woman should be subjected to criticism and ostracism, while a married woman, who "devoted her life to her own interests, hoping for a return in kind", was admired. After observing that many women marry to escape opprobrium, Morgan ended the piece on a humorous note.

²³The Use and Abuse of Widows," *Charleston News*, March 10, 1873.

²⁴F. W. Dawson to Sarah Morgan, March, 1873, F. W. Dawson Papers, Perkins Library, Duke University.

²⁵*Ibid*.

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On earth they [Old Maids] can hope for nothing....Beelzebub himself will be moved to say to the humble-minded spinster, who presents herself as only fit for obscurity: "Go up higher, friend. Brimstone and fire can offer no new pain to one who has borne the title of Old Maid."²⁶

An article on bachelors and widowers, suggested by Frank Dawson, followed. Dawson had suggested that she be "as hard on the men as possible,"²⁷ and she was, describing bachelors as "isolated, impregnable, yet inviting assault." Insufferably egotistical, a bachelor was a

...lion among women [according to his own account]....[with] a private cave where the bones of more or less than 11,000 virgins are blanching in secret....However unattractive, each is convinced that the women are crazy about him.

To tame the beasts, Morgan suggested "a tax on derelict Bachelors and Widowers to be devoted to the support of Old Maids and unenterprising Widows."²⁸

Later articles revealed Morgan's haughty disdain for those who indulged in the absurd social amenities of the day and allowed their opinions to be formed by custom rather than by common sense. "Man barely escapes infantile perils, when repression, censure, criticism, and injustice seize him in the name of propriety."²⁹ Other pieces had a feminist tone, but Sarah Morgan was not really a feminist, and certainly not an agitator for women's political rights. In one article Morgan praised the South Carolina legislature for passing a law protecting the property of married women, an indication that men were favoring to a limited degree "the true doctrine of Women's Rights--the right of doing as she will with her own." It was up to women to "prove themselves capable of filling worthily that to which they are now confined."³⁰ The franchise however, was a "reproach" and a "chimera."³¹ Upon hearing of a New York bill extending the franchise to women who possessed \$250 in property, Morgan wrote that soon

²⁶"Old Maids," *Charleston News*, March 15, 1873.

²⁷F. W. Dawson to Sarah Morgan, March, 1873, F. W. Dawson Papers, Perkins Library, Duke University.

²⁸"Bachelors," *Charleston News*, March 22, 1873.

²⁹"Society and Propriety," *Charleston News and Courier*, May, 1873, n.d. clipping in a scrapbook kept by Sarah Morgan during 1873. In 1873, Dawson and his partner, B. F. Riordan, bought out the rival *Charleston Courier*, and on April 7, 1873 the first issue of the *Charleston News and Courier* was published.

³⁰"The Property of Married Women," *Charleston News*, April 1873.

³¹"Work for Women," *Charleston News*, April 15, 1873.

[m]aid and matron [will] claim and exercise the privilege of electing the right woman to the wrong place. They will triumphantly prove themselves capable of blundering as systematically as the average male voter....How would an average citizen feel, for instance, if his sister, wife or sweet-heart, upon whom he had bestowed the necessary property qualification, proved the womanly gratitude by casting her vote for his deadly foe?....³²

Sarah Morgan had strong views about women's capabilities in the work place and clearly did not believe that all women were suited only for keeping house and husband. When Dawson sent her an article about women clerks she had only praise for states which opened new avenues for women.

It is an example that the South will do well to follow. There are tens of thousands of delicately nurtured women pining in want and in enforced idleness, to whom the possibility of earning support for themselves, or for those dependent on them, would be an inconceivable blessing....In the South, to be a seamstress or a governess is the only alternative left open to indigent respectability....

Women have so long wilted in dark places that their woes and wants have become as vague and as unreal as the nursery tales....Half educated...these helpless creatures...are thrown as ruthless as broken flowers on the stones of an unsympathetic world.

There is no greater bore than a female dependent. Some men still cling to the ancient prejudice of woman's sanctity, and maintain that she is desecrated by labor....Receiving money for toil is deemed a disgrace... [Most men would prefer to see their female dependents working, but would] stipulate that the scene of her labors should be removed from his sight, and that he should be spared any public comment....³³

In the summer of 1873 in partial recognition of her performance on the newspaper staff, Morgan became special correspondent for the *News and Courier* in White Sulphur Springs, West Virginia. The editor's exterior motive in sending her was to enable her to get away from the muggy Charleston summer, relax, and benefit from

³²"\$250 For a Vote," *Charleston News*, April 4, 1873.

³³"Work for Women," *Charleston News and Courier*, April 15, 1873.

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the warm springs. Lively editorials, many on events at the resort, flowed from her pen, under the name "Feu Follet."³⁴

A most interesting article, from a personal standpoint, was "Long Engagements," a topic suggested by Dawson. Morgan wrote that lengthy engagements were difficult, for

[t]hey seldom result in marriage. If they do, the marriage is rarely happy....Perhaps the ideal marriage and the most perfect form of happiness is to be found where two people, recognizing the hopelessness of their attachment, quietly put aside thoughts of earthly union, and dedicate themselves each to the development of the highest good which is in them....

Lovers are confident that their particular union cannot be indefinitely postponed. But if they really love, they will be willing to wait through time for eternity....³⁵

More condemnation of Southern social habits came from the resort, including a blistering attack on mourning customs. Though universally regarded as respectable, mourning, Morgan believed, was often hypocritical, the same for the "hardened sinner and the little child." Furthermore, few of the bereft

care to brave public opinion. Though rebels at heart, the majority meekly yield to popular prejudice; and enroll themselves for protection under the banner of desolation. There are mourners who wear scarlet within and bombazine without.³⁶

Morgan's journalistic career almost ended at White Sulphur Springs that summer. One of the guests heard a rumor that she had written "some very clever letters for a Southern paper," which the guest thought was a great compliment. The authoress was outraged that anyone, especially a friend, would take such liberties with her name. Though Morgan denied the "accusation," the guest persisted and inquired about the authorship from the newspaper itself. Even Dawson's stout denials failed to convince the guest that she had not written the articles. She was furious at the indignity of the accusation.³⁷

Sarah Morgan's editorials are indicative of the degree to which men and women

³⁴Davis, "Sarah Dawson," 45.

³⁵"Long Engagements," *Charleston News and Courier*, June 28, 1873.

³⁶"Mourning," *Charleston News and Courier*, July 5, 1873.

³⁷Sarah Morgan to F. W. Dawson, August 15, 1873; F. W. Dawson to Sarah Morgan, September 8, 1873, F. W. Dawson Papers, Perkins Library, Duke University.

will go simply to conform to "social custom"--the ultimate judge. The southern creed taught that "society is the all-essential thing," not personal morals or conscience.

What hope is there for the pure in heart or for the voluntarily depraved, who are taught alike that society is the supreme end of life, and then learn, by observation, that society means studied fraud and gilded corruption? And this is the Social deity to which women are taught to sacrifice themselves, and for which men court shame and disgrace!³⁸

During their courtship Morgan and Dawson established patterns in their relationship which persisted throughout their marriage. Francis Warrington Dawson frequently sought advice from his wife and used her as a sounding board for his ideas. As advisor to the influential editor of the *News and Courier* Morgan found still another opportunity for self-fulfillment.³⁹

Early in the courtship Dawson sought Morgan's opinion regarding the proposed merger of his company, *The Charleston News*, and the rival *Charleston Courier*. He wrote that he relied on her more than ever, and claimed that "without you I am a gone somebody." The first summer after they were married, while his pregnant wife vacationed in the Catskill Mountains, Dawson wrote that "your influence over me is more potent when you are away than when you are with me...."⁴⁰ Years later their son, Warrington Dawson, indicated that Morgan was her husband's closest and most trusted confidante.

He rarely if ever took a decisive step in his public career without first requesting her opinion, by which he was frequently inspired; and he had the constant advantage, night and day, of asking her to remind him of some quotation, who said this or that and in what circumstances. Her encyclopedic mind, unerringly accurate and always able to cite a passage in any book she had read, was never at fault....⁴¹

One of Morgan's editorials is the forerunner of Dawson's campaign in support of anti-duelling legislation in the 1880s. Her interest in duelling dated from the 1860s

³⁸"Fashionable Society," *Charleston News and Courier*, June 14, 1873.

³⁹Clark, *Dawson*, 103.

⁴⁰Quoted in Logan, "Francis Dawson," 93; F. W. Dawson to Sarah Morgan Dawson, July 17, 1874, F. W. Dawson Papers, Perkins Library, Duke University.

⁴¹Typescript prepared by Warrington Dawson, son of Francis W. and Sarah Morgan Dawson, 27-28. This typescript is at the end of the first box of letters in the F. W. Dawson papers, Perkins Library, Duke University.

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when a brother was killed in a duel.⁴² Inspired by a senseless murder in 1873, Morgan wrote an article entitled "Killing to Murder," a caustic denunciation of southern violence. Murder in the south, she believed, was the predictable result of the prevalent notion that "habitual carrying of deadly weapons is a wise and necessary precaution...stimulated by dime novels and the dramatic apotheosis of crime." She understood that the code of chivalry, a "popular creed that men hold in their own hands the redress of all their imaginary or actual injuries," in extreme drove young men to desire "a place in the exalted order of mature men...[with] a jealous solicitude to secure, at any price, his own selfish aims...[which would] entitle him to respect as a 'man of honor.'"⁴³

Although writing had brought satisfaction, contentment, and a little money, "Mr. Fowler and Feu Follet" ceased to exist January 27, 1874 when Morgan married. Occasionally after the marriage, Morgan submitted a few articles and many book reviews, all unsigned. While serving on the staffs of the *News* and the *News and Courier*, Sarah Morgan saw seventy-five, possibly more, of her pieces published.⁴⁴ The *Charleston News and Courier* by the 1880s was one of the leading newspapers in the South; Sarah Morgan played a great part in its success by serving it so well during the formative and uncertain years. She watched its metamorphosis from a small paper into the giant of South Carolina journalism; she saw it attacked from many sides as her husband fought for what he thought was right; she watched his enemies try to destroy and discredit it. The *News and Courier* was as much a part of Sarah Morgan Dawson as it was of her husband.⁴⁵

The fiery editor of the *News and Courier* generated much controversy in Charleston and he had many enemies. Throughout their marriage Morgan had feared for her husband's life. Her fears were realized on March 12, 1889, when Dr. Thomas B. McDow murdered Dawson.⁴⁶ The assassination, prompted by an alleged insult aimed at the Dawson's maid, engendered deep bitterness in the widow, and she believed that South Carolina itself was to blame.⁴⁷

What justice, law or common decency prevail in
the State of South Carolina? It is a cross which
all its honorable citizens must bear with me.
Mine is the private anguish, theirs the public
shame. I think I prefer my burden to theirs.
For I did not seek mine....I know that their
blindness is some excuse for unconscious depravity.
And I know too that those who see as much as I do
dare not remove the veil from their deliberately

⁴²Wilson, *Patriotic Gore*, 263.

⁴³"Killing to Murder," *Charleston News*, March 13, 1873.

⁴⁴Logan, "Francis Dawson," 105-106.

⁴⁵Davis, "Sarah Dawson," 52.

⁴⁶The Narrative of Sarah Morgan Dawson," Book I, 86. Mss. written for the children following Francis W. Dawson's murder, F. W. Dawson Papers, Perkins Library, Duke University.

⁴⁷Davis, "Sarah Dawson," 61.

darkened eyes. There must be some way of salvation for them, but while Pulpit, press and society all serenely cry that they are in the path of safety and virtue and need not improve, there is little hope. God may send a thunder-bolt, however, or a native, one of "our own people" may be murdered. We will see what effect that will have in developing any fixed idea of right or wrong among these peculiar creatures.⁴⁸

In Morgan's mind South Carolinians "are an unprincipled, mongrel, ungrateful race, playing at 'honor' and 'chivalry'....There is nothing to prevent anyone's murder, so far as I can see, certainly not public opinion."⁴⁹

Writing had once been a salvation, both emotionally and financially. Unhappy, bitter, and disillusioned, Morgan turned to her craft again following her husband's death. During the 1890s she wrote several short stories which, while not particularly good, are entertaining and readable. "Death on Fashion --In the Wilds of Tennessee" emphasized the moral superiority of Confederate young women.⁵⁰ In "Sounding Brass and Tinkling Cymbals--A Morning Episode," Sarah Morgan Dawson made one of her very rare statements about race. Set in South Carolina during Reconstruction, the story is about "negro domination," southern aristocrats, and carpetbaggers.⁵¹ Morgan's most searing indictment of South Carolina was in "The Ghost of a Sunbonnet," dubbed by *Cosmopolitan* magazine a "Tragedy of South Carolina." The story concerned a decadent South Carolina aristocrat who forced a former slave to murder a poor woman and her son. According to the story, South Carolinians had wallowed in self-pity since the Civil War and had reached the point where rational, intelligible action was impossible. Self-strangulation, she prophesied, was South Carolina's future if the people did not begin to eliminate moral debilitation from their lives.⁵² Ethel Dawson, the Dawsons' only daughter, suffered some "unpleasantness" when the story was published in the Charleston paper. "The natives tell Ethel that the *News and Courier* properly feels that Silence is the kindest thing; and that they will try 'to forgive me for a most unnecessary act of calling public attention to unfortunate conditions of life in South Carolina!!!!'"⁵³

Financial difficulties plagued the Dawsons after 1889, and Mrs. Dawson and her children moved first to New York and then to Paris. She continued to write sporadically; many of her stories and articles remain in manuscript form. Shortly after the turn of the century Sarah Morgan Dawson began editing her Civil War diary for

⁴⁸Sarah Morgan Dawson to James C. Hemphill, September 22, 1889, Hemphill Family Papers, Perkins Library, Duke University.

⁴⁹Sarah Morgan Dawson to James C. Hemphill, 1889, Hemphill Family Papers, Perkins Library, Duke University.

⁵⁰"Death on Fashion--In the Wilds of Tennessee," Mss., F. W. Dawson Papers, Perkins Library, Duke University.

⁵¹"Sounding Brass and Tinkling Cymbals, A Morning Episode," Mss., F. W. Dawson Papers, Perkins Library, Duke University.

⁵²Mrs. F. W. Dawson, "A Tragedy of South Carolina," *Cosmopolitan*, November, 1895, Vol. XX, no. 1, 53-62.

⁵³Sarah Morgan Dawson to James C. Hemphill, October 31, 1895, Hemphill Family Papers, Perkins Library, Duke University.

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publication, but the would-be publisher rejected it.⁵⁴ In Paris several journals published her "little stories" and her French version of the B'r'er Rabbit stories, *Les Aventures de Jeannot Lapin*, became a textbook in French schools. Such successes led her to boast in 1907 that she had "quite a reputation her [in Paris] as a French writer."⁵⁵

Sarah Morgan Dawson died in Paris in March 1909. She had cast "tender, and beautiful deeds and words of comfort [for] others--all the days of [her] life," a fitting tribute for one who was always a "Southern lady."⁵⁶

⁵⁴Davis, "Sarah Dawson," 84, 93.

⁵⁵*Ibid.*, 95; Sarah Morgan Dawson to Eunice Dunkin, January 17, 1902, F. W. Dawson Papers, Perkins Library, Duke University; Sarah Morgan Dawson to James C. Hemphill, October 29, 1907, Hemphill Family Papers, Perkins Library, Duke University.

⁵⁶Lavinia Morgan Drum to Sarah Morgan Dawson, November 9, 1908, F. W. Dawson Papers, Perkins Library, Duke University.

To Endure, but Not Accept: The News and Courier and School Desegregation

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A graduate school professor of mine once recalled a talk William Faulkner gave in Charlottesville advocating school desegregation. Faulkner said, "We got to do this thing; we got to do it because it's right. But we got to do it before the Yankees make us do it." At that point Faulkner still saw a chance that the South might grab hold of the last bit of voluntary choice left to it.¹ It did not, and the South and the nation have been paying the price ever since.

How do we explain the failure of white Southerners to "do this thing," to institute the necessary reforms, even after the *Brown* decision? Certainly, a time-honored attachment to tradition, an irrational fear of the unknown, a stubborn racism, and a legitimate alarm over the expansion of federal power all weighed heavily on the conscious or subconscious minds of segregationists. Yet, in retrospect, change - integration - looks so inevitable today that the question still remains: why did Southern leaders force their region to suffer the pains of federally imposed reform.

An examination of the *Charleston News and Courier* and its editor Thomas R. Waring during the ten years after the *Brown* decision provides a particularly good opportunity to move towards an answer to that question. First, newspaper editorials in their attempt to guide and inform public opinion must respond immediately, for the record, to current events and issues, and therefore reveal a close connection between ideas and events.² The *News and Courier*, moreover, is especially valuable as a source because of the leading role it played in fighting desegregation. Its masthead proudly reads "the most outspoken newspaper in South Carolina," and Judge J. Waties Waring, the uncle of the editor and first judge to pronounce that segregation in schools was patently unequal, called the *News and Courier* the "bible of the supremacists."³ Reed Sarratt, former Winston-Salem *Journal* editor and author of a book on desegregation, found the *News and Courier's* Thomas Waring without peer for "sheer volume and variety of his fusillades against the Supreme Court."⁴ As southern journalism's most adamant

¹Paul M. Gaston, "Sutpen's Door: The South Since the *Brown* Decision," in *Two Decades of Change*, Ernest M. Lander, ed. (Columbia: University of South Carolina, 1975) 105.

²John Kneebone, *Southern Liberal Journalists and the Issue of Race* (Chapel Hill: University of North Carolina Press, 1985) xvi.

³*News and Courier*, 7 Nov. 1954.

⁴Reed Sarratt, *The Ordeal of Segregation* (New York: Harper & Row, 1966) 253.

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opponent of change, the Charleston paper is an enlightening study for another reason. An understanding of how, when, and why the *News and Courier* finally does alter its position can shed some light on how the region as a whole has accommodated itself--however belatedly, however reluctantly--to civil rights for blacks.

The newspaper's position on civil rights and especially the particular tenor of its arguments against school desegregation in the 1950's and 1960's grew out of an aristocratic tradition that had survived, albeit in a corrupted and fragmentary form, since the paper's founding as a Federalist daily in 1803.⁵ Well before Thomas Waring took the editorial reins in 1951, his predecessor and uncle William Watts Ball had gained national publicity for his conservatism. Ball's fierce attacks against the federalism of the New Deal prompted *Newsweek* magazine to identify him as "a man willing to die for states' rights."⁶ Ball's irascibility and uncompromising editorial stances led the pro-Roosevelt *Anderson Independent* to describe Charleston as the place where "Dr. Ball and chronic dyspepsia run together to form the *News and Courier*."⁷ The political philosophy that undergirded the *News and Courier's* editorial opinion during the Ball years of the 30's and 40's is most clearly reflected in *The State That Forgot: South Carolina's Surrender to Democracy*, a quasi-history Ball wrote in 1932. South Carolina's problems had begun, Ball said, when the aristocracy of the state opened the franchise to the white masses, thereby shifting political power from the old breed, men of culture and learning.⁸ Thomas Waring, a ninth-generation Charlestonian whose ancestors had arrived in 1683, shared his uncle's elitist philosophy of government, believing "King Numbers is not a very wise monarch. Those cities and states that are ruled by him suffer. Those cities where government is in the hands of educated and propertied men are good places in which to live."⁹

A distrust of the masses is not all that Waring had learned from his uncle, however. "W. W. Ball taught me the newspaper business," Waring later recalled. Even though Waring's father, Thomas R. Waring, Sr., was editor of the *Charleston Evening Post*, a jointly owned and published evening paper, it was Ball who hired Thomas, Jr. in 1927 as a young reporter.¹⁰ In his duties as city reporter and subsequently managing editor, Waring learned first-hand Ball's guiding editorial principle: "The power of a newspaper lay in its hammer strokes, in the day by day, month by month editorial pounding on a single theme."¹¹

The theme that dominated all others for Waring in his first decade as editor was the race issue. When he took over for Ball in January 1951, *Briggs v. Elliott*, a suit to desegregate Clarendon County Schools, was on the docket of his uncle Judge J. Waties Waring. The case, one of five eventually to reach the Supreme Court under the consolidated title of *Brown v. Board of Education*, was scheduled for that May in

⁵Herbert Ravenel Sass, *Outspoken: 150 Years of the News and Courier* (Columbia: University of South Carolina Press, 1953) 3.

⁶John D. Stark, *Damned Upcountryman: William Watts Ball: A Study in American Conservatism* (Durham: Duke University Press, 1968) 193.

⁷Stark, 231.

⁸Stark 143-152.

⁹"Since Little Rock," pamphlet of collected editorials published by the *News and Courier*, South Carolina Historical Society Archives.

¹⁰Interview with Thomas R. Waring, 10 February 1989.

¹¹Sass, 109.

Charleston's Broad Street courthouse. By 1951 most politicians in the state, including Governor James Byrnes, realized that South Carolina's defense of segregation required that the state at least begin to reduce glaring inequities in educational opportunities for black and white children.¹² So, as a preemptive measure, with an eye towards the upcoming *Briggs* hearing, the general assembly levied a three-percent sales tax to finance a building program to equalize school facilities for black students. Most of the state's newspapers supported the equalization effort on the grounds of preserving segregation.¹³ The *News and Courier* was conspicuous in dissent. It not only opposed integration, but also disapproved of taxpayer's money being spent to upgrade the schools. An editorial in October of 1951 asked, "Education for what? For relief rolls? Will the South, the country, be willing to support hordes of colored farm folks OUTSIDE the school house in the style to which the pupils will be accustomed?"¹⁴ The paper's stance on school equalization was a harbinger for the decade to come. Even with segregation in public schools, the main line of defense, vitally threatened, the *News and Courier* was unable to support this obvious attempt at preemptive reform.

The *Brown* decision in May 1954 launched Tom Waring and the *News and Courier* on an unrelenting crusade to save segregation and the southern way of life. Hardly a day went by for six years after *Brown* that Waring did not attack the evils of race mixing, champion states' rights, or in some other way defend the South's case for segregation. On May 18, 1954, the morning after the Supreme Court decision, the *News and Courier* was deceptively calm. In a front page editorial the paper noted "with distaste and apprehension" that the "decision drove another nail into the coffin of states' rights," but that it was "too late to secede and start another War Between the States." Waring urged "common sense and good will," but no "cowardice" on the part of his readers.¹⁵ Within days, however, the *News and Courier* adopted a more aggressive stance alternately attacking the Supreme Court, the NAACP, and the northern press; and assessed the South's options for resistance. The NAACP was "remarkably potent in its ability to suppress any Negro opposition to its programs," according to William D. Workman, Jr., a special correspondent. An editorial in the *News and Courier* put the NAACP "in the same class with the Klan," the main difference being that the NAACP had managed to capture the Supreme Court.¹⁶ The northern metropolitan press, a May 25, 1954 editorial claimed, was guilty of "a studied and long-term policy" of suppressing racial strife or Negro crimes in areas outside the South. The *New York Times* and the *New York Herald* were singled out as "part of this nationwide propaganda drive."¹⁷ By May 30, less than two weeks after the ruling, Bill Workman offered the *News and Courier's* readers five options: acceptance of the Court's ruling; nullification; abolition of the public schools; evasive action, such as the establishment of a private school system; or passive resistance which he defined as "non-compliance" rather than open defiance.¹⁸

¹²Numan v. Bartley, *The Rise of Massive Resistance* (Baton Rouge: LSU Press, 1969) 44-46.

¹³Tinsley E. Yarbrough, *A Passion for Justice: J. Waties Waring and Civil Rights* (New York: Oxford University Press, 1987) 191.

¹⁴*News and Courier*, 21 October 1951, in Yarbrough, 204-205.

¹⁵*News and Courier*, 18 May 1954; 19 May 1954.

¹⁶*News and Courier*, 26 May 1954.

¹⁷*News and Courier*, 25 May 1954.

¹⁸*News and Courier*, 30 May 1954.

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In the year after *Brown*, as the District of Columbia and the border states began to comply and the deep South waited to hear the implementation guidelines from the court, Thomas Waring crystallized an intransigent stance for his editorial page. When Clarendon County officials announced their intentions to close their public schools rather than integrate, the *News and Courier* "saluted their calm and courageous statement." Waring hoped that if the South took its stand and stated it firmly, made "that drastic decision, other less drastic ways may open up."¹⁹ Waring did make that drastic decision and did not budge from it publicly for five years. Vowing that "firm decent resistance in the end will win," Waring relied on the power of the negative, never once offering a constructive plan for acceptance of the desegregation decision or even compromise. When in *Brown II* the Court announced that it would carry out its order that schools must be racially mixed, Waring replied in an editorial that there was "no argument about how the order can be carried out....It can be carried out only by an army, dispatched into South Carolina from outside."²⁰

Once the Court had cautiously decided that desegregation in the South should proceed "with all deliberate speed," the South seemed to have some breathing room. The *News and Courier*, however, gave no quarter. Southern people, it asserted, had a will to resist that would not let them "yield their principles so long as they draw breath."²¹ Waring's unceasing diatribes prompted Reed Sarratt, editor of the *Winston-Salem Journal* and a moderate who had termed *Brown II* "about as lenient as it could be,"²² to write to his friend Waring and ask, "Aren't you afraid that if you slam on the brakes too hard too frequently, you will wear them out?"²³ Waring's metaphorical reply is interesting, revealing a dread of what lies ahead for the South and an apparent willingness to sacrifice everything in an effort to resist change. He answered Sarratt:

Your point on the danger of our wearing out brakes is well made, and has not escaped us. Nonetheless when you're careening downhill, and snubbing doesn't seem to slow you down, and you can't see around the next curve, you have to take a chance on burning up the brake lining. Maybe a wreck is the only way to stop our plunge.²⁴

Waring refused until the end to move off his stance of loudly shouting "Never!" He believed that any concession whatever would weaken the South's position, would crack the dike of resistance. However, despite this uncompromising public posture, Waring knew early on and admitted privately that complete victory for his cause was unlikely. "There will have to be compromises," he wrote in 1955 to James J. Kilpatrick, editor of

¹⁹"We Take Our Stand" pamphlet of collected editorials published by the *News and Courier*, South Carolina Historical Society Archives.

²⁰Undated clipping; Waring Papers; S.C.H.S. Archives.

²¹*News and Courier*, 24 August 1955.

²²Undated clipping from *Winston-Salem Journal*, Waring Papers.

²³Reed Sarratt to Waring, 7 June 1955; Waring Papers.

²⁴Waring to Sarratt, 9 June 1955; Waring Papers.

the *Richmond News Leader*. "But I don't intend to be the one to suggest them."²⁵ In fact Waring showed a reluctance even to consider what compromise solutions may have been available to the South. "The great task facing conservative Americans is that of simply preserving existing rights," Waring wrote in response to a reader's question of 'what will you be for in 1970'." Waring continued, "first comes the struggle to save what must be saved...all planning for the future must be secondary."²⁶

During the period 1956 and 1957, the high point of the South's massive resistance, it seemed as if segregationists could indeed postpone "all planning for the future." Throughout the South white supremacists took the offensive. The Klan witnessed a resurgence. Citizens Councils began in Mississippi and soon spread to every southern state. In 1957 South Carolina State Senator Marion Gressette, chairman of a committee appointed in 1952 to advise the state on strategies dealing with school desegregation, informed Governor George Bell Timmerman that South Carolina was "well prepared to meet any situation that may develop in the present crisis."²⁷

Waring continued to hammer away in daily editorials, but also carried the South's case to a national audience. His article "The Southern Case Against Desegregation" published in the January 1956 issue of *Harper's* represented an attempt to pierce through the "paper curtain," the conspiracy Waring saw among the national media to shut out "the real Southern viewpoint from the rest of the country." Claiming that most white southerners "favor uplift of the Negro," Waring argued that "the uplift is being forced at too fast a pace." Southerners are better "equipped by experience to cope with race problems" than people from other regions. Leaving legal matters aside for the most part, Waring cited "cultural differences too great at present" to permit black and white children to "mingle freely in school." Blacks, Waring claimed, did not hold themselves to the same health standards as whites. Incidences of venereal disease were higher for blacks. Blacks had a "primitive view of sex habits" and a lower average intellectual development. Even if integration would work to cure these differences, "a single generation of white children will bear the brunt of the load." Few southern parents would be willing to "sacrifice their own offspring" in this fashion. Waring concluded with the warning that if "strong-arm" methods were tried, "the very existence of public schools is in peril."²⁸

The article and summaries of it on the UPI and AP wires brought a flood of supportive letters from all over the country.²⁹ Waring became something of a celebrity, receiving dozens of invitations to speak at colleges, symposia, and breakfast clubs. From the spring of 1956 through the end of 1957, Waring traveled around the country and Canada stating the segregationists' case before such forums as Brandeis, Princeton, and Columbia universities, and Chet Huntley's national radio audience.³⁰

Meanwhile the *News and Courier* in its almost daily attack on desegregation used myriad specific arguments, but many fell into broad categories along the lines of the *Harper's* piece. The paper also frequently sought the high ground by presenting a

²⁵Waring to James J. Kilpatrick, 8 November 1955; Waring Papers.

²⁶"After Little Rock," pamphlet published by *News and Courier*, S.C.H.S. Archives.

²⁷Paul Wesley McNeill, "School Desegregation in South Carolina," dissertation, University of South Carolina, 1979.

²⁸Waring, "The Southern Case Against Desegregation," *Harper's*, January 1956.

²⁹Waring Interview.

³⁰Waring Interview.

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Harper's piece. The paper also frequently sought the high ground by presenting a constitutional defense. It was buttressed by James J. Kilpatrick's rediscovered doctrine of interposition, and supposedly could appeal to readers regardless of their views on race. Racial issues, after all, did not concern many Northerners, but any patriotic American must be "deeply concerned over destroying the balance between central and state governments."³¹ The Supreme Court's decision to forbid states to control their own schools portended other encroachments on self-government. The Civil War notwithstanding, the *News and Courier* looked to John C. Calhoun who "well understood...the division of federal and local powers."³²

Many other editorials rested on the claim that integration would undermine harmony between the races and therefore peace in the community. The argument was simple enough, but had little basis in reality. The *News and Courier* claimed that race relations in Charleston were "excellent" because "whites and Negroes for many years have known how to live in peace, harmony, and separation."³³ But one had only to look to the northern cities where "mixed schools" already existed to understand the crime, racial strife, and other "new and frightening" problems the South could expect as a result of integration. Comparing the segregated South with the integrated North, the paper stated:

Segregation in the South at least has prevented terrorism in cities But undisciplined packs roam [Northern] streets. In the South we have no packs of savages. Though Negroes are more numerous, they are better behaved. Yes, and more CIVILIZED! They stay to themselves. They recognize and accept the limits set up for themselves and for white people.³⁴

On September 24, 1957 President Eisenhower's use of federal troops to integrate schools in Little Rock, Arkansas, forced the nation to re-evaluate school desegregation. The *News and Courier*, still fuming over the *Brown* decision, initially adopted an even more militant stance. Although conceding a victory to the federal government, the paper foresaw that the "damage may prove fatal." It was not inconceivable that a "secession movement will develop sometime in the future" or that "Molotov cocktails...my be hurled in the streets of American cities."³⁵ Despite the fact that Waring's paper vowed ever more vehemently to fight on, the United States Army's presence at Little Rock seemed to render desegregation inevitable. Waring remained unconvinced of that, however, still asserting in the days after Little Rock that "South Carolinians....will reluctantly close their public schools before they will mix the races."³⁶

As Waring reflected on the implications of Eisenhower's actions, events in Virginia further damaged the segregationists' cause. On November 11, 1958 Richmond *News Leader* editor James J. Kilpatrick, chief architect of the modern theory of inter-position, called for a review of Virginia's policy of massive resistance which had actually led to the

³¹New York Times, 25 April 1952; Waring Papers.

³²"We Take Our Stand."

³³*News and Courier*, 14 December 1955

³⁴*News and Courier*, 30 January 1956.

³⁵Since Little Rock."

³⁶*News and Courier*, 27 September 1957.

closing of schools in Charlottesville, Norfolk, and Arlington.³⁷ Two months later, Virginia Governor James Lindsay Almond informed his legislature that the time had come to deal with "fact, not fiction; a condition and not abstract theory; reality, not surmise and wishful thinking."³⁸ In other words, he declared an official end to massive resistance in Virginia.

At this time, Waring was forced to reassess his own position. He recalled later, "We were not ready to throw in the towel, but we realized that we had a losing position; that sooner or later, one by one, these things were going to have to be adjusted."³⁹ In 1959 in South Carolina interposition and the abandonment of public schools were, as yet, abstract questions since no blacks had actually attempted to enroll in white schools, although they had won the right to do so in the courts. Consequently the *News and Courier* did not openly reverse its editorial stance on closing the schools. But at a secret meeting of eight pro-segregationist newspaper editors in Atlanta in April 1959, Waring agreed to a plank stating, "complete closing of all public schools is unlikely and impractical and should not be discussed seriously."⁴⁰ Waring later recalled that the meeting was more "to hold hands and commiserate" than anything else.⁴¹

But Waring still had plenty of fight left. The meeting in Atlanta represented a modification for the *News and Courier*, but certainly not a moderation, which implies a movement within reasonable bounds. The paper's new stance was the result of a dictated settlement. A February 6, 1960 editorial commenting on integration of a school in southwest Virginia conveyed Waring's intractability. Entitled "Token Integration Endured, Not Accepted," it admonished readers not to use the words "accept" when referring to integration because that implied to "embrace, adopt, or receive." Instead, the word endure was more appropriate because it meant to "remain firm as under trial or suffering; to suffer patiently without yielding; to bear up under adversity." This distinction was "not quibbling;" the use of proper words "reflects basic principles, beliefs, and morals." Although Floyd County, Virginia, "bowed to superior force, the end of the story is not yet written. It merely means submission until means can be found to cast off the yoke."⁴²

By the time integration came to Charleston, every state in the South except South Carolina had desegregated its public schools. Furthermore, federal authorities had once again been dispatched to carry out a court order, this time at Ol' Miss. On September 29, 1962, after federal marshalls had arrived in Oxford, but before the bloodshed and killing had begun, the *News and Courier*, in its worst tradition, displayed some of its old defiance - and some prescience. "The only antidote for Tyranny is revolution....This country was founded in revolution by men who believed that liberty from time to time had to be nourished with the blood of patriots."⁴³ However, after the shooting stopped and two men lay dead with 375 marshalls and rioters wounded, the *News and Courier* reflected soberly that the federal troops' actions "supplies a lesson that every southern

³⁷Bartley, 321.

³⁸Harry Ashmore, *Hearts and Minds* (New York: McGraw Hill, 1984) 287.

³⁹Waring Interview.

⁴⁰"Secret Meeting of Southern Editors," Waring Papers.

⁴¹Waring Interview.

⁴²*News and Courier*, 6 February 1960.

⁴³McNeill, 16.

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state must study carefully in gauging its future actions."⁴⁴

Tom Waring did study carefully the consequences of the Ol' Miss violence. When desegregation finally came to South Carolina, the *News and Courier*, historically reluctant to learn any lesson, could no longer deny the overwhelming power of the federal government. The paper was "not surprised" in August 1963 when Federal District Judge J. Robert Martin ordered Charleston School District Twenty to admit eleven black children to previously all-white schools.⁴⁵ A front page editorial recognized the "practical advisability of accepting the eleven Negro pupils." Since the ruling ordered only token integration, the *News and Courier* felt the schools could safely be kept "operating one more year." However, the paper termed the rest of Judge Martin's decision directing the district to achieve "total desegregation" by 1964 a "basis for disaster."⁴⁶ Nevertheless, in 1964 when more black children complying with more court orders brought more integration to Charleston, the old *News and Courier* seemed hardly up for the fight. Its short editorial was summed up by the statement, "We find little good to say on the subject."⁴⁷

James McBride Dabbs, South Carolinian, philosopher, and farmer, once said of the white segregationist: "In the last 100 years he's learned two things: you can't keep the Yankees out, or the Negroes down."⁴⁸ I hope Mr. Dabbs did not give the segregationist too much credit. Tom Waring retired as editor of the *News and Courier* in 1976 after twenty-five years on the job. Upon his retirement, James J. Kilpatrick, friend and ally in the rear-guard action against change, wrote him and urged, one neo-bourbon to another, "We mustn't ever quit, and I'm sure you won't."⁴⁹

⁴⁴*News and Courier*, 29 September 1962.

⁴⁵*News and Courier*, 3 October 1962.

⁴⁶*News and Courier*, 23 August 1963.

⁴⁷*News and Courier*, 23 August 1963.

⁴⁸*News and Courier*, 25 June 1964.

⁴⁹Jack Bass, *Porgy Comes Home* (Columbia: R. L. Bryan, 1972) 73.

MINUTES
ANNUAL MEETING 1989

The fifty-ninth annual meeting of the South Carolina Historical Association convened at Converse College in Spartanburg on 4 March 1989. Approximately seventy-five members and guests of the Association attended the meeting. Following registration and coffee and pastry, the members attended one of the first two morning sessions.

One of these, under the topic of *Traitors and Trials*, was chaired by Dennis Paz, Clemson University. Bruno Gujer, Coastal Carolina College, dealt with "Dialogue on Heresy: An Approach to Teaching History," followed by John Crangle, Benedict College, who discussed "Legal Theories of the Nuremberg and Stockholm-Roskilde Tribunals." Joe Dunn of Converse College provided the comment.

The other early morning session, chaired by Jesse Scott, Newberry College, had *South Carolina in the Twentieth Century* as its theme. Wayne King, Francis Marion College, took a new look at the Bigham Murders in "Hog-Killin' Day." Stephen O'Neill, College of Charleston, looked at "The Myth of the Happy Slave: *The News and Courier* and Civil Rights in Charleston." The two papers were criticized by A.V. Huff of Furman University.

Two other late-morning sessions followed. One of them reviewed *The First Hundred Years of Independence* with Nathaniel Magruder, Converse College, in the chair. Paul Horne, USC-Columbia, talked about "William Henry Drayton and the Articles of Confederation," Christopher Poteat, Clemson University, spoke on "A Frontier Not Extended: South Carolina, the Blue Ridge Railroad and the Failure to Connect with the West, 1852-1860," and Brooks Simpson, Wofford College, contributed "New Views on the Grant Presidency." Jeffrey Poelvoorde of Converse College reviewed the three papers.

Reflecting the growing ecumenism of history, the second late-morning session, chaired by Ross Bayard of Wofford College, was devoted to *Third World Development*. John Wilson, USC-Spartanburg, offered prescient views on "China's Modernization: The Perils of Progress," and Ken MuFuka, Lander College, presented his Field Experiences with "Cultural Values versus Economic Development in Zimbabwe 1980-1988." Thomas Thoroughman of Wofford College commented.

Having partaken amply of food for thought, the members then added to the burden by eating a tasty lunch in the college dining-room, following which they listened to the luncheon speaker, Jacquelyn Dowd Hall, UNC-Chapel Hill, who reminisced on "The Making and Remaking of a Cotton Mill World." Special thanks go to Jeffrey Willis and Converse College, who not only arranged the talk but also bore the expense of the speaker's fee.

The business meeting was relatively brief. President Rodger Stroup recognized the contribution of Alice Henderson, USC-Spartanburg, in putting together the program, and thanked Jeffrey Willis for the excellent and generous local arrangements. He announced that next year's meeting will take place at Clemson University on the occasion of its centenary. Peter Becker gave a report on the Financial Statements, published in the 1988-1989 *Proceedings*. President Stroup announced the appointment of Peter Becker as new editor of the *Proceedings* and thanked Bill Brockington for his diligence in that

position during the past several years. He nominated John Crangle, who had kindly agreed to assume this burden, as the next secretary-treasurer, Charles H. Lesser, South Carolina Department of Archives and History, as executive board member, Clara Gandy, Coker College, as the next vice-president, and Alice Henderson as the next president of the Association. The membership voted in favor of the nominees.

The afternoon session, chaired by Philip Racine, Wofford College, painted fascinating *Portraits of Southern Women*. Constance Schulz, USC-Columbia, talked about "Eliza Lucas Pinckney," Jean Berlin, Wofford College, discussed "Anna Maria Thornton," and Catherine Cann, Spartanburg Methodist College, spoke about "Sarah Morgan Dawson." The commentator was Wylma Wates of the South Carolina Department of Archives and History.

The final event of the day was a reception at the College Alumnae House, with Converse College being the gracious host.

Submitted respectfully,
Peter W. Becker
Secretary-Treasurer

March 4, 1989

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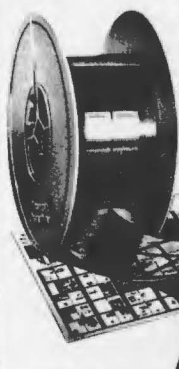
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